

MAR 18 2003
Place On Calendar

HOUSE FILE 611
BY COMMITTEE ON ECONOMIC GROWTH
(SUCCESSOR TO HSB 289)

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

A BILL FOR

1 An Act relating to the development of crop biotechnology, and
2 providing for precision-use crop utilization financial
3 assistance.

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

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HF 611

1 Section 1. NEW SECTION. 15E.113 PRECISION-USE CROP
2 UTILIZATION FINANCIAL ASSISTANCE PROGRAM.

3 1. The department shall establish a precision-use crop
4 utilization financial assistance program. As used in this
5 section, a "precision-use crop" means a crop originating from
6 a genetically modified agricultural seed as defined in section
7 199.1, if the crop is designated to be produced for a specific
8 purpose other than for human consumption as food or animal
9 consumption as feed, as designated by the United States food
10 and drug administration or the United States department of
11 agriculture. The department shall consult with the Iowa corn
12 growers association and the Iowa soybean association. The
13 purpose of the program is to encourage the increased
14 production and utilization of precision-use crops, including
15 grain produced from such crops in this state. In awarding
16 financial assistance, the department shall commit resources to
17 assist facilities which are involved in the development of new
18 innovative products and processes related to the utilization
19 of precision-use crops. In establishing and administering the
20 program, the department shall consult with the Iowa corn
21 growers association and the Iowa soybean association.

22 2. A person is eligible to receive assistance under the
23 program if the person satisfies the following requirements:

24 a. The person owns an established business, including a
25 constructed facility or is proposing to establish a business,
26 including by constructing a facility. The business operation,
27 including the facility must be located in this state. The
28 business, including the facility, must do any of the
29 following:

30 (1) Produce a good derived from a precision-use crop if
31 the good is not commonly produced from a precision-use crop.

32 (2) Use a process to produce a good derived from a
33 precision-use crop if the process is not commonly used to
34 produce the good.

35 b. The person applies to the department in a manner and

1 according to procedures required by the department.

2 c. The person submits a business plan which demonstrates
3 managerial and technical expertise. The business plan must
4 include a marketing plan, a budget, and a statement of purpose
5 stating how the financial assistance will be used.

6 3. The department may provide financial assistance to an
7 eligible person upon review and evaluation of the person's
8 application. Financial assistance shall be in the form of a
9 loan, forgivable loan, loan guarantee, cost share,
10 indemnification of costs, or any combination of such financing
11 as deemed appropriate by the department. The department shall
12 not approve an application to refinance an existing loan.

13 4. The department shall approve an application for
14 financial assistance based on a point system which accounts
15 for all of the following criteria:

16 a. The feasibility of the existing or proposed business to
17 remain a viable enterprise in this state for a minimum of six
18 years.

19 b. The degree to which the business will increase the
20 utilization of precision-use crops produced in this state.

21 c. The degree to which the business requires financial
22 assistance from a governmental source.

23 d. The extent to which the existing or proposed business
24 is located in a rural region of the state.

25 e. The proportion of a local or private funding match to
26 be contributed to the project.

27 f. The level of need of the region where the existing
28 facility is located or the proposed facility is to be located.

29 g. The degree to which the facility produces a coproduct
30 which is marketed in the same locality where the facility is
31 located.

32 h. The quality of the jobs to be created. In rating the
33 quality of the jobs, the department shall award more points to
34 those jobs that have a higher wage scale, have a lower
35 turnover rate, are full-time or career-type positions, provide

1 comprehensive health benefits, or have other related factors
2 which could be considered to be higher in quality than to
3 other jobs. Businesses that have wage scales substantially
4 below that of existing Iowa businesses in that area should be
5 rated as providing the lowest quality of jobs and should be
6 given the lowest ranking for providing such assistance.

7 i. Whether all known required environmental permits have
8 been issued and regulations met.

9 5. The university of Iowa, Iowa state university, and the
10 university of northern Iowa shall cooperate in assisting
11 facilities receiving financial assistance under this section.
12 Community colleges and private universities and colleges are
13 not precluded from providing this assistance.

14 Sec. 2. NEW SECTION. 15E.114 PRECISION-USE CROP
15 UTILIZATION FINANCIAL ASSISTANCE FUND.

16 1. A precision-use crop utilization financial assistance
17 fund is created in the state treasury under the control of the
18 department.

19 2. The fund shall include any moneys appropriated to the
20 fund by the general assembly, payments of interest earned,
21 recaptures of awards, repayments of moneys loaned or expended
22 by the precision-use crop utilization financial assistance
23 program as provided in section 15E.113, the repossession and
24 sale of assets securing a loan made under the precision-use
25 crop utilization financial assistance program, moneys
26 allocated from the Iowa strategic investment fund created in
27 section 15.313, and any other moneys available to and obtained
28 or accepted by the department from the federal government or
29 private sources for placement in the fund.

30 3. Moneys in the fund are appropriated to the department
31 exclusively to pay the expenses of the department in
32 administering the precision-use crop utilization financial
33 assistance program as provided in section 15E.113. The moneys
34 shall not be transferred, used, obligated, appropriated, or
35 otherwise encumbered except as provided in this section and

1 section 15E.113.

2 4. In administering the fund, the department may do any of
3 the following:

4 a. Contract, sue and be sued, and adopt administrative
5 rules necessary to carry out the provisions of this section
6 and section 15E.113. However, the department shall not in any
7 manner directly or indirectly pledge the credit of the state.

8 b. Authorize payment from the fund for costs, commissions,
9 attorney fees, consultant fees, and other reasonable expenses,
10 including expenses related to carrying out duties necessary
11 for awarding financial assistance under precision-use crop
12 utilization financial assistance program, and for the recovery
13 of loan moneys insured or guaranteed or the management of
14 property acquired in connection with such loans.

15 5. Section 8.33 does not apply to any moneys in the fund.
16 Notwithstanding section 12C.7, interest earned on moneys in
17 the fund shall be credited to the fund.

18 6. The fund is subject to an annual audit by the auditor
19 of state. Moneys in the fund, which may be subject to
20 warrants written by the director of revenue and finance, shall
21 be drawn upon the written requisition of the director of the
22 department of economic development or an authorized
23 representative of the director.

24 EXPLANATION

25 This bill provides for the development of crop
26 biotechnology. The bill amends or creates a number of
27 provisions relating to financing businesses associated with
28 crop biotechnology and specifically precision-use crops. The
29 bill defines a precision-use crop as a grain crop originating
30 from genetically modified seed, if the crop is designed to be
31 produced for a specific purpose other than for human
32 consumption as food or animal consumption as feed as
33 designated by the federal government.

34 The bill creates two new Code sections providing programs
35 to assist businesses involved in processing precision-use

1 crops, and specifically grains from such crops. The bill also
2 establishes a fund to support the program but does not provide
3 for a specific appropriation. The program is administered by
4 the department of economic development and the program and
5 fund are based on the value-added agricultural products and
6 processes financial assistance program (VAPPFAP) and its
7 related fund created in Code sections 15E.111 and 15E.112.

8 The purpose of the program is to assist businesses involved
9 in the production of goods derived from a precision-use crop
10 if the good is not commonly produced from a precision-use
11 crop, or uses a process to produce a good derived from a
12 precision-use crop if the process is not commonly used to
13 produce the good. The bill provides for procedures required
14 to consider and approve applications for assistance. The bill
15 provides a list of criteria that the department must consider
16 when considering an application which relates to the viability
17 of the business to process precision-use crops, its potential
18 to increase local revenue, the quality of jobs to be created,
19 and its environmental impact.

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Description

The Bill establishes the Precision-Use Crop Utilization Financial Assistance Program to assist businesses involved in processing precision-use crops, and specifically grains from such crops. The Bill also establishes the Precision-Use Crop Financial Assistance Utilization Fund to support the Program but does not provide for a specific appropriation. The Precision-Use Crop Utilization Financial Assistance Program and the Fund are administered by the Department of Economic Development and are based on the Value-added Agricultural Products and Processes Financial Assistance Program (VAAPFAP) and its related Fund created in Sections 15E.111 and 15E.112 Code of Iowa.

Assumptions

1. The Department of Economic Development would require no additional staff to operate the Precision-Use Crop Utilization Financial Assistance Program. The Program would function as an extension of the current Value-added Agricultural Products and Processes Financial Assistance Program (VAAPFAP).
2. The Bill specifies the Department may provide financial assistance to eligible persons upon review and evaluation of the person's application.
3. Financial assistance would only be awarded provided funding was available.
4. Since no specific appropriation has been made in the proposed legislation, the only current source of funding would be moneys allocated to the Value-added Agricultural Products and Processes Financial Assistance Program (VAAPFAP) Fund.
5. Funding allocated from the Value-added Agricultural Products and Processes Financial Assistance Program (VAAPFAP) Fund to the Precision-Use Crop Utilization Financial Assistance Fund would be at the discretion of the Department and would result in an opportunity cost between projects.
6. The Department anticipates, at this time, a low number of applications. As technology develops more applications would be anticipated.
7. The Precision-Use Crop Utilization Financial Assistance Fund would be subject to a State audit. This would add to the duties of the Auditor of State's Office. The cost to perform the additional audit is not expected to be significant and would be paid out of the Fund.
8. The Bill specifies the Regents institutions and Community Colleges are to cooperate in assisting facilities receiving financial assistance under the Precision-Use Crop Utilization Financial Assistance Program. It does not specify what level or type of assistance is to be provided. The cost of this provision is not expected to be significant as the Department of Economic Development anticipates a low number of applicants applying for assistance initially. However, the cost to the Regents and Community Colleges cannot be determined.

Fiscal Impact

The cost of HF 611 cannot be determined due to lack of sufficient information, however, the fiscal impact is not expected to be significant. As more Iowa companies engage in biotechnology, the number of applicants applying for assistance is expected to increase, resulting in increased administrative costs.

Sources

Iowa Department of Economic Development
Iowa Board of Regents
Auditor of State

/s/ Dennis C Prouty

March 26, 2003

The fiscal note and operational impact statement for this bill was prepared pursuant to Joint Rule 17 and:

HOUSE FILE 611

H-1160

1 Amend House File 611 as follows:

2 1. Page 4, by inserting after line 23 the
3 following:

4 "Sec. ____ . Section 199.1, Code 2003, is amended by
5 adding the following new subsections:

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

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

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

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

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

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

27 Sec. ____ . Section 199.3, subsection 1, Code 2003,
28 is amended by adding the following new paragraph:

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

35 Sec. ____ . Section 199.8, Code 2003, is amended by
36 adding the following new subsection:

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

42 Sec. ____ . Section 199.13, Code 2003, is amended to
43 read as follows:

44 199.13 PENALTY.

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

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

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

14 SUBCHAPTER 2

15 GENETICALLY MODIFIED AGRICULTURAL SEED

16 Sec. ____ . NEW SECTION. 199.21 APPLICABILITY.

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

32 Sec. ____ . NEW SECTION. 199.22 NOTICE
33 REQUIREMENTS.

34 1. A seed labeler shall provide notice of an
35 agricultural seed or vegetable seed that is
36 genetically modified on the label of a container
37 holding the agricultural seed or vegetable seed as
38 provided in section 199.3 or on a placard as provided
39 in section 199.4. A seed dealer shall provide the
40 same notice in a disclosure statement to a person
41 purchasing the agricultural seed or vegetable seed on
42 a retail basis prior to or at the time of the
43 purchase. The disclosure statement may be contained
44 on a separate form or part of an invoice or bill of
45 sale evidencing a transaction. The seed dealer shall
46 not sell agricultural seed or vegetable seed that has
47 been genetically modified, unless the purchaser signs
48 the disclosure statement acknowledging that the
49 purchaser has read the statement. The seed dealer
50 shall maintain a copy of the acknowledged disclosure

1 statement as part of the seed dealer's business
2 records.

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

8 NOTICE
9 GENETICALLY MODIFIED AGRICULTURAL OR
10 VEGETABLE SEED

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

19 Sec. ____ . NEW SECTION. 199.23 PRODUCTION
20 INFORMATION REQUIREMENTS.

21 1. A seed labeler shall provide production
22 information for agricultural seed or vegetable seed
23 that has been genetically modified as required in this
24 section to the extent that the production information
25 is known by the seed labeler. The production
26 information shall appear on the label as provided in
27 section 199.3 or in a pamphlet attached to the
28 container or accompanying agricultural seed or
29 vegetable seed that is sold in bulk as provided in
30 section 199.4. A seed dealer shall not sell
31 agricultural seed or vegetable seed that the seed
32 labeler identifies as genetically modified, unless the
33 seed dealer provides the purchaser of agricultural
34 seed or vegetable seed with the production
35 information. The production information shall include
36 all of the following:

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

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

50 (1) The transfer of gene characteristics to crops

1 planted on a neighboring field by pollination,
2 including the pollination of crops or the pollination
3 of other related plants inhabiting the neighboring
4 field.

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

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

12 (1) The handling and storage of the crop,
13 including segregation requirements.

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

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

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

31 Sec. ____ . NEW SECTION. 199.24 FOOD CROPS NOT
32 APPROVED FOR HUMAN CONSUMPTION -- COLOR-CODED SEEDS OR
33 SECURITY PLAN.

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

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

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

47 (2) The department approves a security plan, or
48 amendments to an approved security plan, submitted by
49 the person producing a crop from designated seed,
50 according to rules adopted by the department. The

1 security plan shall provide for sound management
2 practices used to ensure that there is no risk of
3 contamination, and for harvesting, storing,
4 transporting, processing, marketing, and utilizing
5 crops or goods processed from those crops in a manner
6 that provides no risk that the crops or goods
7 processed from the crops will be utilized for human
8 consumption. The security plan shall be accompanied
9 by all necessary certifications by persons who will
10 harvest, store, transport, process, or market the crop
11 or goods processed from the crop, as required by the
12 department. The department may approve amendments to
13 the security plan.

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

21 Sec. ____ . NEW SECTION. 199.25 LIABILITY.

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

28 b. A seed dealer who sells agricultural seed or
29 vegetable seed in compliance with sections 199.23 and
30 199.24 shall not be found liable for damages caused by
31 contamination.

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

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

41 Sec. ____ . DIRECTIONS TO CODE EDITOR. The Code
42 editor shall organize chapter 199 in conformance with
43 this Act. The Code editor shall transfer sections
44 199.11 through 199.14 into a new subchapter 3.

45 Sec. ____ . EFFECTIVE DATES. The amendments to
46 sections 199.1, 199.3, 199.8, and 199.13, and sections
47 199.21, 199.22, 199.23, 199.24, and 199.25, as enacted
48 in this Act, take effect on September 1, 2003."

49 2. Title page, line 1, by striking the word
50 "and".

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Page 6

- 1 3. Title page, line 3, by inserting after the
- 2 word "assistance" the following: ", and providing for
- 3 penalties and an effective date".
- 4 4. By renumbering as necessary.

By KUHN of Floyd
WHITAKER of Van Buren

H-1160 FILED MARCH 25, 2003

H-1275

1 Amend House File 611 as follows:

2 1. Page 4, by inserting after line 23 the
3 following:

4 "Sec. _____. Section 199.8, Code 2003, is amended by
5 adding by adding the following new subsection:

6 NEW SUBSECTION. 4. It is unlawful for a person to
7 do any of the following:

8 a. Purchase agricultural seed that produces a
9 precision-use crop, unless the person is certified
10 pursuant to section 199A.6.

11 b. Grow a precision-use crop unless the person
12 growing the crop is certified pursuant to section
13 199A.6.

14 Sec. _____. NEW SECTION. 199A.1 DEFINITIONS.

15 As used in this chapter, unless the context
16 otherwise requires:

17 1. "Conventional crop" means a crop other than a
18 precision-use crop.

19 2. "Council" means the crop bio-integrity council
20 as established pursuant to section 199A.3.

21 3. "Crop" means a plant producing grain as defined
22 in section 203.1.

23 4. "Crop seed" means an agricultural seed as
24 defined in section 199.1 that may be used to produce a
25 crop.

26 5. "Department" means the department of
27 agriculture and land stewardship.

28 6. "Genetic modification" means a scientific
29 process that involves changing an organism's original
30 genetic code or modifying enzymes in living cells to
31 cause a specific biochemical reaction, other than by
32 breeding or pollination.

33 7. "Precision-use crop" means a crop originating
34 from genetically modified crop seeds if the crop is
35 designed to be produced for a specific purpose other
36 than for human consumption as food or animal
37 consumption as feed as designated by the United States
38 food and drug administration, or the United States
39 department of agriculture.

40 8. "Precision-use crop farmer" means any of the
41 following:

42 a. A person who regularly and frequently makes or
43 takes an important part in making management decisions
44 substantially contributing to or affecting the success
45 of the farm operation where precision-use crops are
46 produced.

47 b. A person who performs physical work which
48 significantly contributes to the production of
49 precision-use crops.

50 9. "Secretary" means the secretary of agriculturé.

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1 10. "Seed labeler" means a person required to
2 label agricultural seed or vegetable seed as provided
3 in section 199.3 or 199.4.

4 11. "Transgenic process" means a form of genetic
5 modification that alters the genetic structure of an
6 organism by inserting a foreign gene into the
7 organism's original genetic code.

8 Sec. ____ . NEW SECTION. 199A.2 OFFICE OF CROP
9 BIO-INTEGRITY.

10 The department may establish an office of crop bio-
11 integrity which shall be staffed by personnel as
12 designated by the secretary. If an office is
13 established, the secretary shall appoint a coordinator
14 to head the office. The coordinator may also serve
15 another position in the department. If created, the
16 office shall be the chief administrative unit of the
17 department responsible for the enforcement of this
18 chapter.

19 Sec. ____ . NEW SECTION. 199A.3 CROP BIO-INTEGRITY
20 COUNCIL -- ESTABLISHMENT.

21 A crop bio-integrity council is established within
22 the department.

23 1. The council shall be composed of the following
24 persons:

25 a. The dean of the college of agriculture, Iowa
26 state university of science and technology, or the
27 dean's designee who shall be a specialist in crop
28 science knowledgeable about microbiology.

29 b. The dean of college of pharmacy, university of
30 Iowa, or the dean's designee who possesses a doctoral
31 degree recognized by the American council of
32 pharmaceutical education from a college of pharmacy
33 approved by the board of pharmacy examiners.

34 c. The state entomologist appointed pursuant to
35 section 177A.3.

36 d. The administrator of the department's grain
37 warehouse bureau.

38 e. Eleven persons appointed by the secretary, who
39 shall include all of the following:

40 (1) Four persons who represent a scientific field
41 of study which relates to the following:

42 (a) Plant genetics. The person shall have a sound
43 scientific background in transgenic processes.

44 (b) Plant toxicology.

45 (c) Statistics.

46 (d) Pollination and conventional plant breeding
47 techniques and breeding populations.

48 (2) Seven farmers who are actively engaged in
49 producing crops. Five farmers shall be producers of
50 genetically modified crops and two farmers shall be

1 producers of conventional crops.

2 2. a. The secretary shall accept nominations from
3 organizations representing persons who serve on the
4 council, as determined by the secretary making
5 appointments under this section. The organizations
6 shall at least include the Iowa corn growers
7 association, the Iowa soybean association, the Iowa
8 farm bureau, and the agribusiness association of Iowa.
9 The secretary shall strive to include persons
10 responsible for labeling packages of agricultural
11 seeds as provided in chapter 199.

12 b. The appointed members of the council shall
13 serve staggered terms of four years, except that the
14 initial council members shall serve unequal terms as
15 designated by the secretary. A person appointed to
16 fill a vacancy for an appointed member shall serve
17 only for the unexpired portion of the term. An
18 appointed member is eligible for reappointment for
19 three successive terms.

20 c. Appointments of members are subject to the
21 requirements of sections 69.16 and 69.16A. In
22 addition, the appointments shall be geographically
23 balanced, unless the secretary determines that this
24 requirement is not feasible.

25 d. The secretary may remove an appointed member,
26 if the removal is based on the member's misfeasance,
27 malfeasance, or willful neglect of duty or other just
28 cause, after notice and hearing, unless the notice and
29 hearing is expressly waived in writing.

30 4. The council shall meet and elect a chairperson
31 from among its members for a term of one year. The
32 council shall meet on a regular basis and at the call
33 of the chairperson or upon the written request to the
34 chairperson of three or more members. The department
35 shall provide administrative support to the council.
36 The coordinator of the crop bio-integrity office, if
37 appointed, shall serve as secretary to the council.

38 5. A majority of the council constitutes a quorum
39 and an affirmative vote of the majority of members is
40 necessary for substantive action taken by the council.
41 The majority shall not include any member who has a
42 conflict of interest and a statement by a member of a
43 conflict of interest shall be conclusive for this
44 purpose. A vacancy in the membership does not impair
45 the right of a quorum to exercise all rights and
46 perform all duties of the council.

47 Sec. ____ . NEW SECTION. 199A.4 CROP BIO-INTEGRITY
48 COUNCIL -- DUTIES.

49 The crop bio-integrity council shall assist the
50 department in implementing and administering the

1 provisions of this chapter. The council shall do all
2 of the following:

3 1. a. Develop and propose a precision-use crop
4 certification program as provided in section 199A.6 as
5 a recommendation to the department. The department
6 shall consider the proposed program and respond to the
7 council in writing if the department fails to accept
8 any significant part of the proposed program. The
9 department shall adopt rules to implement or
10 administer the program only after consultation with
11 the council. The council may provide a short
12 statement providing its opinion regarding a proposed
13 rule in the preamble to the notice of intended action
14 published in the Iowa administrative bulletin pursuant
15 to section 17A.4.

16 b. Receive and evaluate applications from persons
17 seeking to be designated as an instructional service
18 as provided in section 199A.5. The council shall
19 periodically review the performance of the
20 instructional service and make recommendations to the
21 department as required to improve the precision-use
22 crop certification program.

23 2. Develop and propose sound management practices
24 for precision-use crop production as provided in
25 section 199A.7 as a recommendation to the department.
26 The department shall consider the proposed sound
27 management practices and respond to the council in
28 writing if the department fails to accept any
29 significant part of the proposed management practices.
30 The department shall adopt rules to implement or
31 administer sound management practices only after
32 consultation with the council. The council may
33 provide a short statement providing its opinion
34 regarding a proposed rule in the preamble to the
35 notice of intended action published in the Iowa
36 administrative bulletin pursuant to section 17A.4.

37 3. Develop and propose a schedule for civil
38 penalties as provided in section 199A.12 as a
39 recommendation to the department. The council may
40 propose a schedule of penalties for minor and serious
41 violations. The department shall consider the
42 proposed schedule and respond to the council in
43 writing if the department fails to accept any
44 significant part of the proposed schedule. The
45 department shall adopt rules to establish a schedule
46 of civil penalties only after consultation with the
47 council. The council may provide a short statement
48 providing its opinion regarding a proposed rule in the
49 preamble to the notice of intended action published in
50 the Iowa administrative bulletin pursuant to section

1 17A.4.

2 4. Review and evaluate applications submitted to
3 the department of economic development for financial
4 assistance under the precision-use crop utilization
5 financial assistance program as provided in section
6 15E.113

7 5. Monitor developments in areas related to
8 genetic modifications in crops and especially
9 transgenic processes. The council shall inform and
10 advise the department, other state agencies, and the
11 committees of the general assembly regarding
12 scientific research and proposed or adopted regulatory
13 systems. The council shall cooperate with
14 administrative units of the United States government,
15 business, and educational institutions in carrying out
16 this subsection.

17 Sec. ____ . NEW SECTION. 199A.5 PRECISION-USE CROP
18 CERTIFICATION PROGRAM -- DESIGNATION OF AN
19 INSTRUCTIONAL SERVICE.

20 The department may designate one or more persons as
21 instructional services which are authorized to
22 administer the precision-use crop certification
23 program as provided in section 199A.6. The person may
24 be a public agency or a private organization. A
25 person shall not be designated as an instructional
26 service unless the person meets qualifications
27 established by the department after consultation with
28 the council as provided in section 199A.4. The person
29 must at least demonstrate that the person has access
30 to facilities necessary in order to provide for the
31 instruction and is managed by individuals who have
32 knowledge of crop production and transgenic processes.
33 The department may immediately cancel a contract with
34 a person who fails to comply with the requirements of
35 the department.

36 Sec. ____ . NEW SECTION. 199A.6 PRECISION-USE CROP
37 CERTIFICATION PROGRAM -- REQUIREMENTS.

38 1. The department shall establish and administer a
39 precision-use crop certification program as provided
40 in this section and section 199A.4. A person shall
41 not act as a precision-use crop farmer, unless the
42 person is certified pursuant to the program as
43 administered by the department or an instructional
44 service as provided in section 199A.5. A
45 certification shall expire each two years as provided
46 by the department.

47 2. The person shall be certified after completing
48 an educational program and demonstrating competency in
49 a manner determined by the department in consultation
50 with the council. Continuing educational courses

1 shall be required as determined by the department in
2 consultation with the council.

3 3. The educational program must at least provide
4 instruction or an examination regarding sound
5 management practices associated with producing
6 precision-use crops, including sound management
7 practices as provided in section 199A.7. The
8 department may adopt rules providing exceptions from
9 these requirements when the requirements are
10 impracticable or do not achieve a substantial benefit
11 when balanced against the cost.

12 4. The department may charge a fee for certifying
13 a person under this section. The fee for
14 certification shall be based on the costs of
15 administering and enforcing the program and paying the
16 expenses of the department relating to certification.

17 Sec. ____ . NEW SECTION. 199A.7 PRECISION-USE CROP
18 PRODUCTION -- SOUND MANAGEMENT PRACTICES.

19 1. The department shall establish and enforce
20 sound management practices for precision-use crop
21 production. The practices shall meet applicable
22 standards of the federal government which may include
23 those promulgated by the United States food and drug
24 administration and the United States department of
25 agriculture. The sound management practices shall at
26 least provide methods to reduce risks associated with
27 all of the following:

28 a. Commingling crop seed that may be used to
29 produce a precision-use crop with crop seed that may
30 produce a conventional crop.

31 b. Commingling grain produced from a precision-use
32 crop with grain produced from a conventional crop.

33 c. Contamination caused by the unintended transfer
34 and incorporation of genetic material between a
35 precision-use crop and a conventional crop during
36 production.

37 2. A person shall not do any of the following:

38 a. Sell crop seed that may be used to produce a
39 conventional crop if the crop seed is commingled with
40 crop seed that may be used to produce a precision-use
41 crop.

42 b. Sell crop grain that was produced from a
43 conventional crop if the crop grain is commingled with
44 the crop grain produced from a precision-use crop.

45 Sec. ____ . NEW SECTION. 199A.8 LIABILITY.

46 1. A seed labeler who sells crop seed to a
47 purchaser is liable for damages as provided in this
48 subsection.

49 a. The damages must be the result of any of the
50 following:

1 (1) Commingling of crop seed that may be used to
2 produce a precision-use crop with crop seed that may
3 produce a conventional crop.

4 (2) Commingling grain produced from a precision-
5 use crop with grain produced from a conventional crop.

6 (3) Contamination caused by the transfer and
7 incorporation of genetic material between a precision-
8 use crop and a conventional crop during production.

9 b. The seed labeler must have failed to provide
10 notice to the purchaser of management practices
11 required to provide methods to reduce risks associated
12 with commingling or contamination which are in
13 addition to sound management practices as provided in
14 section 199A.7. The notification must be in writing
15 and provided to the purchaser at the time of sale.

16 c. The purchaser must be certified pursuant to
17 section 199A.6.

18 d. The precision-use crop must have produced in
19 compliance with sound management practices to reduce
20 risks associated with commingling or contamination as
21 provided in section 199A.7.

22 2. A seed labeler who contracts with a precision-
23 use crop farmer to produce a precision-use crop is
24 liable for damages as provided in this subsection.

25 a. The damages must be the result of any of the
26 following:

27 (1) Commingling of crop seed that may be used to
28 produce a precision-use crop with crop seed that may
29 produce a conventional crop.

30 (2) Commingling grain produced from a precision-
31 use crop with grain produced from a conventional crop.

32 (3) Contamination caused by the transfer and
33 incorporation of genetic material between a precision-
34 use crop and a conventional crop during production.

35 b. The seed labeler must have failed to provide
36 notice to the precision-use crop farmer of management
37 practices required to provide methods to reduce risks
38 associated with commingling or contamination which are
39 in addition to sound management practices as provided
40 in section 199A.7. The notification must be in
41 writing and provided to the precision-use farmer at
42 the time that the contract to produce the precision-
43 use crop is executed.

44 c. The precision-use farmer must be certified
45 pursuant to section 199A.6.

46 d. The precision-use crop must have produced in
47 compliance with sound management practices to reduce
48 risks associated with commingling or contamination as
49 provided in section 199A.7.

50 Sec. ____ . NEW SECTION. 199A.9 PRECISION-USE CROP

1 PRODUCTION -- GENERAL ENFORCEMENT INVESTIGATIONS AND
2 COMPLIANCE AUDITS.

3 1. The department and the attorney general shall
4 enforce this chapter. The attorney general may
5 commence legal proceedings in district court at the
6 request of the department or upon the attorney
7 general's own initiative in order to enforce this
8 chapter, including rules adopted and orders issued by
9 the department pursuant to this chapter. This chapter
10 does not require the attorney general or the
11 department to institute a proceeding for a minor
12 violation if the department or attorney general
13 concludes that the public interest will be best served
14 by a suitable notice of warning in writing.

15 2. The department may conduct an investigation to
16 determine if a person is complying with the
17 requirements of this chapter.

18 3. The department shall conduct compliance audits
19 of precision-use crop farmers to ensure adoption of
20 and compliance with certification requirements of
21 section 199A.7 and sound management practices of
22 section 199A.8.

23 4. The department may enter upon any public or
24 private premises during regular business hours in a
25 manner consistent with the laws of this state and the
26 United States, including Article I, section 8, of the
27 Constitution of the State of Iowa, or the fourth
28 amendment to the Constitution of the United States for
29 purposes of carrying out an investigation.

30 Sec. ____ . NEW SECTION. 199A.10 DISCIPLINARY
31 ACTION.

32 1. The department may take disciplinary action
33 concerning a person who is required to be certified
34 pursuant to section 199A.6 by doing any of the
35 following:

- 36 a. Issuing a letter of warning or reprimand.
37 b. Suspending or revoking a certification or
38 denying the renewal of certification.

39 2. The disciplinary action must be based upon
40 evidence satisfactory to the department that the
41 person has used fraudulent or deceptive practices in
42 violation of this chapter or has willfully disregarded
43 the requirements of this chapter.

44 Sec. ____ . NEW SECTION. 199A.11 STOP SALE ORDER.

45 1. If a person sells commingled crop seed or
46 commingled crop grain in violation of section 199A.7,
47 the department may issue a written order to stop the
48 sale of the crop seed or crop grain. The person named
49 in the order shall not sell the crop seed or crop
50 grain until the department determines that section

1 199A.7 has not been violated.

2 2. The department may require that the crop seed
3 or crop grain be held at a designated place until
4 released by the department.

5 3. The department or the attorney general may
6 enforce the order by petitioning the district court in
7 the county where the crop seed or crop grain is being
8 sold.

9 4. The department shall release the crop seed or
10 crop grain when the department issues a release order
11 upon satisfaction that legal requirements compelling
12 the issuance of the stop sale order are no longer
13 applicable.

14 Sec. ____ . NEW SECTION. 199A.12 PENALTIES.

15 A person who violates this chapter is subject to a
16 civil penalty of not more than five hundred dollars.
17 Civil penalties shall be assessed by the department
18 pursuant to a contested case proceeding or in district
19 court in an action initiated by the attorney general.
20 Each day that the offense continues constitutes a
21 separate offense. However, a person shall not be
22 subject to a civil penalty of more than five thousand
23 dollars for a continuing offense. Civil penalties
24 collected under this section shall be deposited in the
25 general fund of the state."

26 2. Title page, line 1, by striking the word
27 "and".

28 3. Title page, line 3, by inserting after the
29 word "assistance" the following: ", providing for
30 crop bio-integrity, and providing penalties".

31 4. By renumbering as necessary.

By KUHN of Floyd

Steve Olson, Chr.
Lalk
Struyk

Succeeded By
SF 0611

HSB 289
ECONOMIC GROWTH

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL
BY CHAIRPERSON HOFFMAN)

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

A BILL FOR

1 An Act relating to the development of crop biotechnology,
2 including providing for financing of businesses, the purchase
3 of bio-based products by state government, and the regulation
4 of precision-use crops, and providing penalties.

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

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DIVISION I

FINANCING FOR ECONOMIC GROWTH

Section 1. NEW SECTION. 15E.113 PRECISION-USE CROP
UTILIZATION FINANCIAL ASSISTANCE PROGRAM.

1. The department shall establish a precision-use crop utilization financial assistance program. The department shall consult with the Iowa corn growers association and the Iowa soybean association. The purpose of the program is to encourage the increased production and utilization of precision-use crops, including grain produced from such crops in this state as provided in chapter 199A. In awarding financial assistance, the department shall commit resources to assist facilities which are involved in the development of new innovative products and processes related to the utilization of precision-use crops. In establishing and administering the program, the department shall consult with the Iowa corn growers association and the Iowa soybean association.

2. A person is eligible to receive assistance under the program if the person satisfies the following requirements:

a. The person owns an established business, including a constructed facility or is proposing to establish a business, including by constructing a facility. The business operation, including the facility must be located in this state. The business, including the facility, must do any of the following:

(1) Produce a good derived from a precision-use crop if the good is not commonly produced from a precision-use crop.

(2) Use a process to produce a good derived from a precision-use crop if the process is not commonly used to produce the good.

b. The person applies to the department in a manner and according to procedures required by the department.

c. The person submits a business plan which demonstrates managerial and technical expertise. The business plan must include a marketing plan, a budget, and a statement of purpose

1 stating how the financial assistance will be used.

2 3. The department may provide financial assistance to an
3 eligible person upon review and evaluation of the person's
4 application by the crop bio-integrity council as established
5 in section 199A.3. The department shall consider the
6 council's evaluation in approving or disapproving the
7 application. Financial assistance shall be in the form of a
8 loan, forgivable loan, loan guarantee, cost share,
9 indemnification of costs, or any combination of such financing
10 as deemed appropriate by the department. The department shall
11 not approve an application to refinance an existing loan.

12 4. The department shall approve an application for
13 financial assistance based on a point system which accounts
14 for all of the following criteria:

15 a. The feasibility of the existing or proposed business to
16 remain a viable enterprise in this state for a minimum of six
17 years.

18 b. The degree to which the business will increase the
19 utilization of precision-use crops produced in this state.

20 c. The degree to which the business requires financial
21 assistance from a governmental source.

22 d. The extent to which the existing or proposed business
23 is located in a rural region of the state.

24 e. The proportion of a local or private funding match to
25 be contributed to the project.

26 f. The level of need of the region where the existing
27 facility is located or the proposed facility is to be located.

28 g. The degree to which the facility produces a coproduct
29 which is marketed in the same locality where the facility is
30 located.

31 h. The quality of the jobs to be created. In rating the
32 quality of the jobs, the department shall award more points to
33 those jobs that have a higher wage scale, have a lower
34 turnover rate, are full-time or career-type positions, provide
35 comprehensive health benefits, or have other related factors

1 which could be considered to be higher in quality than to
2 other jobs. Businesses that have wage scales substantially
3 below that of existing Iowa businesses in that area should be
4 rated as providing the lowest quality of jobs and should be
5 given the lowest ranking for providing such assistance.

6 i. Whether all known required environmental permits have
7 been issued and regulations met.

8 5. The university of Iowa, Iowa state university, and the
9 university of northern Iowa shall cooperate in assisting
10 facilities receiving financial assistance under this section.
11 Community colleges and private universities and colleges are
12 not precluded from providing this assistance.

13 Sec. 2. NEW SECTION. 15E.114 PRECISION-USE CROP
14 UTILIZATION FINANCIAL ASSISTANCE FUND.

15 1. A precision-use crop utilization financial assistance
16 fund is created in the state treasury under the control of the
17 department.

18 2. The fund shall include any moneys appropriated to the
19 fund by the general assembly, payments of interest earned,
20 recaptures of awards, repayments of moneys loaned or expended
21 by the precision-use crop utilization financial assistance
22 program as provided in section 15E.113, the repossession and
23 sale of assets securing a loan made under the precision-use
24 crop utilization financial assistance program, moneys
25 allocated from the Iowa strategic investment fund created in
26 section 15.313, and any other moneys available to and obtained
27 or accepted by the department from the federal government or
28 private sources for placement in the fund.

29 3. Moneys in the fund are appropriated to the department
30 exclusively to pay the expenses of the department in
31 administering the precision-use crop utilization financial
32 assistance program as provided in section 15E.113. The moneys
33 shall not be transferred, used, obligated, appropriated, or
34 otherwise encumbered except as provided in this section and
35 section 15E.113.

1 4. In administering the fund, the department may do any of
2 the following:

3 a. Contract, sue and be sued, and adopt administrative
4 rules necessary to carry out the provisions of this section
5 and section 15E.113. However, the department shall not in any
6 manner directly or indirectly pledge the credit of the state.

7 b. Authorize payment from the fund for costs, commissions,
8 attorney fees, consultant fees, and other reasonable expenses,
9 including expenses related to carrying out duties necessary
10 for awarding financial assistance under precision-use crop
11 utilization financial assistance program, and for the recovery
12 of loan moneys insured or guaranteed or the management of
13 property acquired in connection with such loans.

14 5. Section 8.33 does not apply to any moneys in the fund.
15 Notwithstanding section 12C.7, interest earned on moneys in
16 the fund shall be credited to the fund.

17 6. The fund is subject to an annual audit by the auditor
18 of state. Moneys in the fund, which may be subject to
19 warrants written by the director of revenue and finance, shall
20 be drawn upon the written requisition of the director of the
21 department of economic development or an authorized
22 representative of the director.

23

DIVISION II

24

STATE PURCHASING POLICIES

25 Sec. 3. Section 18.6, subsection 12, Code 2003, is amended
26 by adding the following new paragraph:

27 NEW PARAGRAPH. c. The procurement by state agencies of
28 pharmaceutical products manufactured from plants in accordance
29 with the requirements of section 18.23.

30 Sec. 4. NEW SECTION. 18.23 PLANT-BASED PHARMACEUTICALS
31 -- PREFERENCES.

32 When purchasing pharmaceutical products, the department or
33 a state agency authorized by the department to directly
34 purchase pharmaceuticals shall give preference to purchasing
35 pharmaceutical products manufactured from plants. The

1 department shall provide for the implementation of
2 requirements necessary in order to administer this section by
3 the department or state agency making the purchase, which
4 shall include all of the following:

5 1. Including the preference requirements in publications
6 used to solicit bids for pharmaceutical products.

7 2. Describing the preference requirements at bidders'
8 conferences in which bids for the sale of pharmaceutical
9 products are sought by the department or authorized state
10 agency.

11 3. Discussing the preference requirements in procurement
12 solicitations or invitations to bid for pharmaceutical
13 products.

14 4. Informing industry trade associations about the
15 preference requirements.

16 Sec. 5. NEW SECTION. 29A.19A PURCHASE OF BIO-BASED
17 PRODUCTS.

18 The quartermaster shall provide a preference for bio-based
19 products as provided in this section:

20 1. Lubricating oils, industrial oils, greases, hydraulic
21 fluids, greases, and other industrial lubricants shall be
22 purchased in compliance with the preference requirements for
23 purchasing bio-based products pursuant to section 18.22.

24 2. Pharmaceutical products shall be purchased in
25 compliance with the preference requirements for purchasing
26 plant-based pharmaceutical products as provided pursuant to
27 section 18.23.

28 Sec. 6. Section 216B.3, subsection 17, Code 2003, is
29 amended to read as follows:

30 17. Comply with the requirements for the purchase of
31 lubricating bio-based products which are:

32 a. Lubricating oils, industrial oils, greases, and
33 hydraulic fluids, and other industrial lubricants as
34 established pursuant to section 18.22.

35 b. Pharmaceutical products as established pursuant to

1 section 18.23.

2 Sec. 7. Section 260C.19B, Code 2003, is amended to read as
3 follows:

4 260C.19B PURCHASE OF BIO-BASED HYDRAULIC-FLUIDS, GREASES,
5 ~~AND OTHER INDUSTRIAL LUBRICANTS~~ PRODUCTS.

6 ~~Hydraulic fluids, greases, and other industrial lubricants~~

7 The board of directors shall provide a preference for bio-
8 based products as provided in this section when products are
9 purchased by or used under the direction of the board of
10 directors to provide services to a merged area.

11 1. Lubricating oils, industrial oils, greases, hydraulic
12 fluids, and other industrial lubricants shall be purchased in
13 compliance with the preference requirements for purchasing
14 bio-based hydraulic fluids, greases, and other industrial
15 ~~lubricants as provided~~ products pursuant to section 18.22.

16 2. Pharmaceutical products shall be purchased in
17 compliance with the preference requirements for purchasing
18 plant-based pharmaceutical products as provided pursuant to
19 section 18.23.

20 Sec. 8. Section 262.9, subsection 6, Code 2003, is amended
21 to read as follows:

22 6. Purchase and use recycled printing and writing paper,
23 with the exception of specialized paper when no recyclable
24 product is available, in accordance with the schedule
25 established in section 18.18; establish a wastepaper recycling
26 program for all institutions governed by the board in
27 accordance with recommendations made by the department of
28 natural resources and the requirements of section 18.20;
29 shall, in accordance with the requirements of section 18.6,
30 and require product content statements and compliance with
31 requirements regarding procurement specifications, ~~and shall~~
32 ~~comply with the requirements for the purchase of lubricating~~
33 ~~oils and industrial oils as established pursuant to section~~
34 ~~18.22.~~

35 Sec. 9. Section 262.25B, Code 2003, is amended to read as

1 follows:

2 262.25B PURCHASE OF BIO-BASED HYDRAULIC-FLUIDS, GREASES,
3 AND OTHER INDUSTRIAL LUBRICANTS PRODUCTS.

4 The state board of regents and institutions under the
5 control of the board purchasing hydraulic fluids, greases, and
6 other industrial lubricants shall give provide a preference to
7 purchasing bio-based products as provided in this section.

8 1. Lubricating oils, industrial oils, greases, hydraulic
9 fluids, greases, and other industrial lubricants as provided
10 in shall be purchased in compliance with the preference
11 requirements for purchasing bio-based products pursuant to
12 section 18.22.

13 2. Pharmaceutical products shall be purchased in
14 compliance with the preference requirements for purchasing
15 plant-based pharmaceutical products as provided pursuant to
16 section 18.23.

17 Sec. 10. Section 307.21, subsection 4, paragraph b,
18 subparagraph (4), Code 2003, is amended to read as follows:

19 (4) Comply with the requirements for the purchase of
20 lubricating bio-based products which are:

21 (a) Lubricating oils, industrial oils, greases, and
22 hydraulic fluids, and other industrial lubricants as
23 established provided pursuant to section 18.22.

24 (b) Pharmaceutical products as provided pursuant to
25 section 18.23.

26 Sec. 11. Section 904.312B, Code 2003, is amended to read
27 as follows:

28 904.312B PURCHASE OF BIO-BASED HYDRAULIC-FLUIDS, GREASES,
29 AND OTHER INDUSTRIAL LUBRICANTS PRODUCTS.

30 The department when purchasing shall provide a preference
31 to purchasing bio-based products as provided in this section.

32 1. Lubricating oils, industrial oils, greases, hydraulic
33 fluids, greases, and other industrial lubricants shall give
34 preference to purchasing bio-based hydraulic fluids, greases,
35 and other industrial lubricants as provided in be purchased in

1 compliance with the preference requirements for purchasing
2 bio-based products as provided pursuant to section 18.22.

3 2. Pharmaceutical products shall be purchased in
4 compliance with the preference requirements for purchasing
5 plant-based pharmaceutical products as provided pursuant to
6 section 18.23.

7 DIVISION III

8 CROP BIO-INTEGRITY

9 Sec. 12. Section 199.8, Code 2003, is amended by adding by
10 adding the following new subsection:

11 NEW SUBSECTION. 4. It is unlawful for a person to do any
12 of the following:

13 a. Purchase agricultural seed that produces a precision-
14 use crop, unless the person is certified pursuant to section
15 199A.6.

16 b. Grow a precision-use crop unless the person growing the
17 crop is certified pursuant to section 199A.6.

18 Sec. 13. NEW SECTION. 199A.1 DEFINITIONS.

19 As used in this chapter, unless the context otherwise
20 requires:

21 1. "Conventional crop" means a crop other than a
22 precision-use crop.

23 2. "Council" means the crop bio-integrity council as
24 established pursuant to section 199A.3.

25 3. "Crop" means a plant producing grain as defined in
26 section 203.1.

27 4. "Crop seed" means an agricultural seed as defined in
28 section 199.1 that may be used to produce a crop.

29 5. "Department" means the department of agriculture and
30 land stewardship.

31 6. "Genetic modification" means a scientific process that
32 involves changing an organism's original genetic code or
33 modifying enzymes in living cells to cause a specific
34 biochemical reaction, other than by breeding or pollination.

35 7. "Precision-use crop" means a crop originating from

1 genetically modified crop seeds if the crop is designed to be
2 produced for a specific purpose other than for human
3 consumption as food or animal consumption as feed as
4 designated by the United States food and drug administration,
5 or the United States department of agriculture.

6 8. "Precision-use crop farmer" means any of the following:

7 a. A person who regularly and frequently makes or takes an
8 important part in making management decisions substantially
9 contributing to or affecting the success of the farm operation
10 where precision-use crops are produced.

11 b. A person who performs physical work which significantly
12 contributes to the production of precision-use crops.

13 9. "Secretary" means the secretary of agriculture.

14 10. "Transgenic process" means a form of genetic
15 modification that alters the genetic structure of an organism
16 by inserting a foreign gene into the organism's original
17 genetic code.

18 Sec. 14. NEW SECTION. 199A.2 OFFICE OF CROP BIO-
19 INTEGRITY.

20 The department may establish an office of crop bio-
21 integrity which shall be staffed by personnel as designated by
22 the secretary. If an office is established, the secretary
23 shall appoint a coordinator to head the office. The
24 coordinator may also serve another position in the department.
25 If created, the office shall be the chief administrative unit
26 of the department responsible for the enforcement of this
27 chapter.

28 Sec. 15. NEW SECTION. 199A.3 CROP BIO-INTEGRITY COUNCIL
29 -- ESTABLISHMENT.

30 A crop bio-integrity council is established within the
31 department.

32 1. The council shall be composed of the following persons:

33 a. The dean of the college of agriculture, Iowa state
34 university of science and technology, or the dean's designee
35 who shall be a specialist in crop science knowledgeable about

1 microbiology.

2 b. The dean of college of pharmacy, university of Iowa, or
3 the dean's designee who possesses a doctoral degree recognized
4 by the American council of pharmaceutical education from a
5 college of pharmacy approved by the board of pharmacy
6 examiners.

7 c. The state entomologist appointed pursuant to section
8 177A.3.

9 d. The administrator of the department's grain warehouse
10 bureau.

11 e. Eleven persons appointed by the secretary, who shall
12 include all of the following:

13 (1) Four persons who represent a scientific field of study
14 which relates to the following:

15 (a) Plant genetics. The person shall have a sound
16 scientific background in transgenic processes.

17 (b) Plant toxicology.

18 (c) Statistics.

19 (d) Pollination and conventional plant breeding techniques
20 and breeding populations.

21 (2) Seven farmers who are actively engaged in producing
22 crops. Five farmers shall be producers of genetically
23 modified crops and two farmers shall be producers of
24 conventional crops.

25 2. a. The secretary shall accept nominations from
26 organizations representing persons who serve on the council,
27 as determined by the secretary making appointments under this
28 section. The organizations shall at least include the Iowa
29 corn growers association, the Iowa soybean association, the
30 Iowa farm bureau, and the agribusiness association of Iowa.
31 The secretary shall strive to include persons responsible for
32 labeling packages of agricultural seeds as provided in chapter
33 199.

34 b. The appointed members of the council shall serve
35 staggered terms of four years, except that the initial council

1 members shall serve unequal terms as designated by the
2 secretary. A person appointed to fill a vacancy for an
3 appointed member shall serve only for the unexpired portion of
4 the term. An appointed member is eligible for reappointment
5 for three successive terms.

6 c. Appointments of members are subject to the requirements
7 of sections 69.16 and 69.16A. In addition, the appointments
8 shall be geographically balanced, unless the secretary
9 determines that this requirement is not feasible.

10 d. The secretary may remove an appointed member, if the
11 removal is based on the member's misfeasance, malfeasance, or
12 willful neglect of duty or other just cause, after notice and
13 hearing, unless the notice and hearing is expressly waived in
14 writing.

15 4. The council shall meet and elect a chairperson from
16 among its members for a term of one year. The council shall
17 meet on a regular basis and at the call of the chairperson or
18 upon the written request to the chairperson of three or more
19 members. The department shall provide administrative support
20 to the council. The coordinator of the crop bio-integrity
21 office, if appointed, shall serve as secretary to the council.

22 5. A majority of the council constitutes a quorum and an
23 affirmative vote of the majority of members is necessary for
24 substantive action taken by the council. The majority shall
25 not include any member who has a conflict of interest and a
26 statement by a member of a conflict of interest shall be
27 conclusive for this purpose. A vacancy in the membership does
28 not impair the right of a quorum to exercise all rights and
29 perform all duties of the council.

30 Sec. 16. NEW SECTION. 199A.4 CROP BIO-INTEGRITY COUNCIL
31 -- DUTIES.

32 The crop bio-integrity council shall assist the department
33 in implementing and administering the provisions of this
34 chapter. The council shall do all of the following:

35 1. a. Develop and propose a precision-use crop

1 certification program as provided in section 199A.6 as a
2 recommendation to the department. The department shall
3 consider the proposed program and respond to the council in
4 writing if the department fails to accept any significant part
5 of the proposed program. The department shall adopt rules to
6 implement or administer the program only after consultation
7 with the council. The council may provide a short statement
8 providing its opinion regarding a proposed rule in the
9 preamble to the notice of intended action published in the
10 Iowa administrative bulletin pursuant to section 17A.4.

11 b. Receive and evaluate applications from persons seeking
12 to be designated as an instructional service as provided in
13 section 199A.5. The council shall periodically review the
14 performance of the instructional service and make
15 recommendations to the department as required to improve the
16 precision-use crop certification program.

17 2. Develop and propose sound management practices for
18 precision-use crop production as provided in section 199A.7 as
19 a recommendation to the department. The department shall
20 consider the proposed sound management practices and respond
21 to the council in writing if the department fails to accept
22 any significant part of the proposed management practices.
23 The department shall adopt rules to implement or administer
24 sound management practices only after consultation with the
25 council. The council may provide a short statement providing
26 its opinion regarding a proposed rule in the preamble to the
27 notice of intended action published in the Iowa administrative
28 bulletin pursuant to section 17A.4.

29 3. Develop and propose a schedule for civil penalties as
30 provided in section 199A.12 as a recommendation to the
31 department. The council may propose a schedule of penalties
32 for minor and serious violations. The department shall
33 consider the proposed schedule and respond to the council in
34 writing if the department fails to accept any significant part
35 of the proposed schedule. The department shall adopt rules to

1 establish a schedule of civil penalties only after
2 consultation with the council. The council may provide a
3 short statement providing its opinion regarding a proposed
4 rule in the preamble to the notice of intended action
5 published in the Iowa administrative bulletin pursuant to
6 section 17A.4.

7 4. Review and evaluate applications submitted to the
8 department of economic development for financial assistance
9 under the precision-use crop utilization financial assistance
10 program as provided in section 15E.113

11 5. Monitor developments in areas related to genetic
12 modifications in crops and especially transgenic processes.
13 The council shall inform and advise the department, other
14 state agencies, and the committees of the general assembly
15 regarding scientific research and proposed or adopted
16 regulatory systems. The council shall cooperate with
17 administrative units of the United States government,
18 business, and educational institutions in carrying out this
19 subsection.

20 Sec. 17. NEW SECTION. 199A.5 PRECISION-USE CROP
21 CERTIFICATION PROGRAM -- DESIGNATION OF AN INSTRUCTIONAL
22 SERVICE.

23 The department may designate one or more persons as
24 instructional services which are authorized to administer the
25 precision-use crop certification program as provided in
26 section 199A.6. The person may be a public agency or a
27 private organization. A person shall not be designated as an
28 instructional service unless the person meets qualifications
29 established by the department after consultation with the
30 council as provided in section 199A.4. The person must at
31 least demonstrate that the person has access to facilities
32 necessary in order to provide for the instruction and is
33 managed by individuals who have knowledge of crop production
34 and transgenic processes. The department may immediately
35 cancel a contract with a person who fails to comply with the

1 requirements of the department.

2 Sec. 18. NEW SECTION. 199A.6 PRECISION-USE CROP
3 CERTIFICATION PROGRAM -- REQUIREMENTS.

4 1. The department shall establish and administer a
5 precision-use crop certification program as provided in this
6 section and section 199A.4. A person shall not act as a
7 precision-use crop farmer, unless the person is certified
8 pursuant to the program as administered by the department or
9 an instructional service as provided in section 199A.5. A
10 certification shall expire each two years as provided by the
11 department.

12 2. The person shall be certified after completing an
13 educational program and demonstrating competency in a manner
14 determined by the department in consultation with the council.
15 Continuing educational courses shall be required as determined
16 by the department in consultation with the council.

17 3. The educational program must at least provide
18 instruction or an examination regarding sound management
19 practices associated with producing precision-use crops,
20 including sound management practices as provided in section
21 199A.7. The department may adopt rules providing exceptions
22 from these requirements when the requirements are
23 impracticable or do not achieve a substantial benefit when
24 balanced against the cost.

25 4. The department may charge a fee for certifying a person
26 under this section. The fee for certification shall be based
27 on the costs of administering and enforcing the program and
28 paying the expenses of the department relating to
29 certification.

30 Sec. 19. NEW SECTION. 199A.7 PRECISION-USE CROP
31 PRODUCTION -- SOUND MANAGEMENT PRACTICES.

32 1. The department shall establish and enforce sound
33 management practices for precision-use crop production. The
34 practices shall meet applicable standards of the federal
35 government which may include those promulgated by the United

1 States food and drug administration and the United States
2 department of agriculture. The sound management practices
3 shall at least provide methods to reduce risks associated with
4 all of the following:

5 a. Commingling crop seed that may be used to produce a
6 precision-use crop with crop seed that may produce a
7 conventional crop.

8 b. Commingling grain produced from a precision-use crop
9 with grain produced from a conventional crop.

10 c. Contamination caused by the unintended transfer and
11 incorporation of genetic material between a precision-use crop
12 and a conventional crop during production.

13 2. A person shall not do any of the following:

14 a. Sell crop seed that may be used to produce a
15 conventional crop if the crop seed is commingled with crop
16 seed that may be used to produce a precision-use crop.

17 b. Sell crop grain that was produced from a conventional
18 crop if the crop grain is commingled with the crop grain
19 produced from a precision-use crop.

20 Sec. 20. NEW SECTION. 199A.8 LIABILITY.

21 1. A person who sells crop seed to a purchaser is liable
22 for damages as provided in this subsection.

23 a. The damages must be the result of any of the following:

24 (1) Commingling of crop seed that may be used to produce a
25 precision-use crop with crop seed that may produce a
26 conventional crop.

27 (2) Commingling grain produced from a precision-use crop
28 with grain produced from a conventional crop.

29 (3) Contamination caused by the transfer and incorporation
30 of genetic material between a precision-use crop and a
31 conventional crop during production.

32 b. The person must have failed to provide notice to the
33 purchaser of management practices required to provide methods
34 to reduce risks associated with commingling or contamination
35 which are in addition to sound management practices as

1 provided in section 199A.7. The notification must be in
2 writing and provided to the purchaser at the time of sale.

3 c. The purchaser must be certified pursuant to section
4 199A.6.

5 d. The precision-use crop must have produced in compliance
6 with sound management practices to reduce risks associated
7 with commingling or contamination as provided in section
8 199A.7.

9 2. A person who contracts with a precision-use crop farmer
10 to produce a precision-use crop is liable for damages as
11 provided in this subsection.

12 a. The damages must be the result of any of the following:

13 (1) Commingling of crop seed that may be used to produce a
14 precision-use crop with crop seed that may produce a
15 conventional crop.

16 (2) Commingling grain produced from a precision-use crop
17 with grain produced from a conventional crop.

18 (3) Contamination caused by the transfer and incorporation
19 of genetic material between a precision-use crop and a
20 conventional crop during production.

21 b. The person must have failed to provide notice to the
22 precision-use crop farmer of management practices required to
23 provide methods to reduce risks associated with commingling or
24 contamination which are in addition to sound management
25 practices as provided in section 199A.7. The notification
26 must be in writing and provided to the precision-use farmer at
27 the time that the contract to produce the precision-use crop
28 is executed.

29 c. The precision-use farmer must be certified pursuant to
30 section 199A.6.

31 d. The precision-use crop must have produced in compliance
32 with sound management practices to reduce risks associated
33 with commingling or contamination as provided in section
34 199A.7.

35 Sec. 21. NEW SECTION. 199A.9 PRECISION-USE CROP

1 PRODUCTION -- GENERAL ENFORCEMENT INVESTIGATIONS AND
2 COMPLIANCE AUDITS.

3 1. The department and the attorney general shall enforce
4 this chapter. The attorney general may commence legal
5 proceedings in district court at the request of the department
6 or upon the attorney general's own initiative in order to
7 enforce this chapter, including rules adopted and orders
8 issued by the department pursuant to this chapter. This
9 chapter does not require the attorney general or the
10 department to institute a proceeding for a minor violation if
11 the department or attorney general concludes that the public
12 interest will be best served by a suitable notice of warning
13 in writing.

14 2. The department may conduct an investigation to
15 determine if a person is complying with the requirements of
16 this chapter.

17 3. The department shall conduct compliance audits of
18 precision-use crop farmers to ensure adoption of and
19 compliance with certification requirements of section 199A.7
20 and sound management practices of section 199A.8.

21 4. The department may enter upon any public or private
22 premises during regular business hours in a manner consistent
23 with the laws of this state and the United States, including
24 Article I, section 8, of the Constitution of the State of
25 Iowa, or the fourth amendment to the Constitution of the
26 United States for purposes of carrying out an investigation.

27 Sec. 22. NEW SECTION. 199A.10 DISCIPLINARY ACTION.

28 1. The department may take disciplinary action concerning
29 a person who is required to be certified pursuant to section
30 199A.6 by doing any of the following:

31 a. Issuing a letter of warning or reprimand.

32 b. Suspending or revoking a certification or denying the
33 renewal of certification.

34 2. The disciplinary action must be based upon evidence
35 satisfactory to the department that the person has used

1 fraudulent or deceptive practices in violation of this chapter
2 or has willfully disregarded the requirements of this chapter.

3 Sec. 23. NEW SECTION. 199A.11 STOP SALE ORDER.

4 1. If a person sells commingled crop seed or commingled
5 crop grain in violation of section 199A.7, the department may
6 issue a written order to stop the sale of the crop seed or
7 crop grain. The person named in the order shall not sell the
8 crop seed or crop grain until the department determines that
9 section 199A.7 has not been violated.

10 2. The department may require that the crop seed or crop
11 grain be held at a designated place until released by the
12 department.

13 3. The department or the attorney general may enforce the
14 order by petitioning the district court in the county where
15 the crop seed or crop grain is being sold.

16 4. The department shall release the crop seed or crop
17 grain when the department issues a release order upon
18 satisfaction that legal requirements compelling the issuance
19 of the stop sale order are no longer applicable.

20 Sec. 24. NEW SECTION. 199A.12 PENALTIES.

21 A person who violates this chapter is subject to a civil
22 penalty of not more than five hundred dollars. Civil
23 penalties shall be assessed by the department pursuant to a
24 contested case proceeding or in district court in an action
25 initiated by the attorney general. Each day that the offense
26 continues constitutes a separate offense. However, a person
27 shall not be subject to a civil penalty of more than five
28 thousand dollars for a continuing offense. Civil penalties
29 collected under this section shall be deposited in the general
30 fund of the state.

31 EXPLANATION

32 This bill provides for the development of crop
33 biotechnology. The bill amends or creates a number of
34 provisions relating to financing businesses associated with
35 crop biotechnology and specifically precision-use crops. It

1 requires the purchase of bio-based products by state
2 government. It also provides for the regulation of precision-
3 use crop production.

4 The bill defines a precision-use crop as a grain crop
5 originating from genetically modified seed, if the crop is
6 designed to be produced for a specific purpose other than for
7 human consumption as food or animal consumption as feed as
8 designated by the federal government.

9 DIVISION I -- FINANCING FOR ECONOMIC GROWTH. The bill
10 creates two new Code sections providing programs to assist
11 businesses involved in processing precision-use crops, and
12 specifically grains from such crops. The bill also
13 establishes a fund to support the program but does not provide
14 for a specific appropriation. The program is administered by
15 the department of economic development and the program and
16 fund are based on the value-added agricultural products and
17 processes financial assistance program (VAPPFAP) and its
18 related fund created in Code sections 15E.111 and 15E.112.

19 The purpose of the program is to assist businesses involved
20 in the production of goods derived from a precision-use crop
21 if the good is not commonly produced from a precision-use
22 crop, or uses a process to produce a good derived from a
23 precision-use crop if the process is not commonly used to
24 produce the good. The bill provides for procedures required
25 to consider and approve applications for assistance which
26 include a review and evaluation of applications by a crop bio-
27 integrity council as established in the bill. The department
28 provides a list of criteria that the department must consider
29 when considering an application which relates to the viability
30 of the business to process precision-use crops, its potential
31 to increase local revenue, the quality of jobs to be created,
32 and its environmental impact.

33 DIVISION II -- STATE PURCHASING POLICIES. The Code of Iowa
34 requires state agencies to purchase various bio-based
35 products, including ethanol, degradable loose foam packing

1 material manufactured from grain starches, and industrial
2 lubricants manufactured from soybeans. The bill requires
3 state agencies to provide a preference when purchasing
4 pharmaceutical products to purchase those products which are
5 manufactured from plants. It provides for a number of
6 requirements for bidding, including by notifying bidders of
7 the preference requirement. It amends provisions which
8 currently provide a preference when purchasing industrial
9 lubricants by standardizing the Code language.

10 The state agencies affected include the department of
11 general services, the Iowa national guard, the department for
12 the blind, community colleges, the state board of regents, the
13 state department of transportation, and the department of
14 corrections.

15 DIVISION III -- CROP BIO-INTEGRITY. The bill amends Iowa's
16 seed law in Code chapter 199 and creates a new Code chapter
17 199A which regulates the production of precision-use crops
18 under the authority of the department of agriculture and land
19 stewardship. It amends Code section 199.8 which prohibits a
20 number of practices by persons involved in the business of
21 selling agricultural seeds. The bill prohibits a person from
22 purchasing or growing agricultural seed that produces a
23 precision-use crop, unless the person is certified as required
24 under the bill. A violation of this Code chapter is a simple
25 misdemeanor. A simple misdemeanor is punishable by
26 confinement for no more than 30 days or a fine of at least \$50
27 but not more than \$500 or by both.

28 The bill creates a new Code chapter 199A which regulates
29 the production of precision-use crops. It provides that the
30 department may establish an office of bio-integrity, and
31 authorizes the secretary of agriculture to appoint a
32 coordinator to head the office. The office, if created, is
33 responsible for the enforcement of the chapter. It also
34 establishes a crop bio-integrity council within the
35 department. The council is composed of persons involved in

1 education, science, and production. The bill provides for
2 procedures related to appointment, its internal organization,
3 and voting requirements.

4 The council is responsible for assisting the department in
5 implementing and administering the provisions of the new Code
6 chapter. As part of its specific duties, the council must
7 develop a precision-use crop certification program, review
8 applications from persons seeking to be designated as an
9 instructional service to administer the program, develop and
10 propose sound management practices for precision-use crop
11 production, and develop and propose a schedule for civil
12 penalties for persons in violation of the Code chapter. The
13 council must also review and evaluate applications submitted
14 to the department of economic development for financial
15 assistance under the precision-use crop utilization financial
16 assistance program as provided in the bill. Finally, it must
17 monitor developments in areas to genetic modifications in
18 crops and especially transgenic processes.

19 The bill requires the department to establish and
20 administer a precision-use crop certification program.
21 According to the bill, a person cannot act as a precision-use
22 crop farmer, unless the person is certified. The program may
23 be administered by an instructional service which contracts
24 with the department. A certification shall expire every two
25 years. The program requires farmers to attend instructional
26 courses. The educational program must at least provide
27 instruction or an examination regarding sound management
28 practices associated with producing precision-use crops,
29 including sound management practices. The department may
30 adopt rules providing exceptions from the requirements.

31 The bill requires the department to establish and enforce
32 sound management practices for precision-use crop production.
33 The practices shall meet applicable standards of the federal
34 government which may include those promulgated by the United
35 States government. They must relate to methods to reduce

1 risks associated with commingling crop seed that may be used
2 to produce a precision-use crop with crop seed that may
3 produce a conventional crop; commingling grain produced from a
4 precision-use crop with grain produced from a conventional
5 crop; and contamination caused by the unintended transfer and
6 incorporation of genetic material between a precision-use crop
7 and a conventional crop during production.

8 The bill provides that a person who sells crop seed to a
9 purchaser or a person who contracts to produce a precision-use
10 crop with a farmer is liable for damages caused by commingling
11 or contamination. According to the bill, the person must have
12 failed to provide notice of additional management practices
13 required to reduce risks associated with commingling or
14 contamination which are in addition to sound management
15 practices as provided in the bill. The purchaser or farmer
16 must be certified, and the crop must have been produced in
17 compliance with sound management practices as provided in the
18 bill.

19 The bill prohibits a person from selling crop seed that may
20 be used to produce a conventional crop if the crop seed is
21 commingled with crop seed that may be used to produce a
22 precision-use crop. It also prohibits a person from selling a
23 crop grain that was produced from a conventional crop if the
24 crop grain is commingled with crop grain produced from a
25 precision-use crop.

26 The bill authorizes the department and the attorney general
27 to enforce the provisions of the Code chapter. It also
28 authorizes the department to conduct an investigation to
29 determine if a person is complying with the requirements of
30 the chapter.

31 The bill authorizes the department to take disciplinary
32 action concerning a person who is required to be certified
33 based upon evidence that the person has used fraudulent or
34 deceptive practices or has willfully disregarded the
35 requirements of the chapter.

1 The bill authorizes the department to issue stop sale
2 orders to persons who are violating a provision in the new
3 Code chapter. According to the bill, the department may
4 require that crop seed or crop grain be held at a designated
5 place until released by the department. The department or
6 attorney general may enforce the order by petitioning the
7 district court.

8 The bill provides for penalties. A person who violates the
9 provisions of the new chapter is subject to a civil penalty of
10 not more than \$500. Each day that the offense continues
11 constitutes a separate offense. However, a person cannot be
12 subject to a civil penalty of more than \$5,000 for a
13 continuing offense.

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