

# Senate Study Bill 1143

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
AGRICULTURE AND LAND  
STEWARDSHIP BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act regulating organic agricultural products, providing for  
2 fees and penalties, and providing an effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1227DP 80  
5 da/cf/24

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1 1 Section 1. Section 190C.1, Code 2003, is amended by  
1 2 striking the section and inserting in lieu thereof the  
1 3 following:  
1 4 190C.1 DEFINITIONS.  
1 5 As used in this chapter, unless the context otherwise  
1 6 requires:  
1 7 1. "Agricultural product" means any agricultural commodity  
1 8 or product, whether raw or processed, including any commodity  
1 9 or product derived from livestock, that is marketed in this  
1 10 state for human or livestock consumption.  
1 11 2. "Council" means the organic advisory council  
1 12 established pursuant to section 190C.2.  
1 13 3. "Crop" means a plant or part of a plant intended to be  
1 14 marketed as an agricultural product or fed to livestock.  
1 15 4. "Department" means the department of agriculture and  
1 16 land stewardship.  
1 17 5. "Handler" means a person engaged in the business of  
1 18 handling agricultural products, including producers who handle  
1 19 crops or livestock of their own production, except such term  
1 20 shall not include final retailers of agricultural products  
1 21 that do not process agricultural products.  
1 22 6. "Label" means a display of written, printed, or graphic  
1 23 material on the immediate container of an agricultural product  
1 24 or any such material affixed to any agricultural product or  
1 25 affixed to a bulk container containing an agricultural  
1 26 product, except for package liners or a display of written,  
1 27 printed, or graphic material which contains only information  
1 28 about the weight of the product.  
1 29 7. "Livestock" means any cattle, sheep, goats, swine,  
1 30 poultry, or equine animals used for food or in the production  
1 31 of food, fiber, feed, or other agricultural-based consumer  
1 32 products; wild or domesticated game; or other nonplant life,  
1 33 except such term shall not include aquatic animals or bees for  
1 34 the production of food, fiber, feed, or other agricultural=  
1 35 based consumer products.  
2 1 8. "National organic program" means the program  
2 2 administered by the United States department of agriculture  
2 3 pursuant to 7 C.F.R. pt. 205, which implements the federal  
2 4 Organic Food Production Act of 1990, 7 U.S.C. } 6501 et seq.  
2 5 9. "Organic" means a labeling term that refers to an  
2 6 agricultural product produced in accordance with this chapter.  
2 7 10. "Organic agricultural product" means an agricultural  
2 8 product that is certified or otherwise qualifies as organic in  
2 9 accordance with the provisions of this chapter as they existed  
2 10 on and after May 20, 1998.  
2 11 11. "Processing" means cooling, baking, curing, heating,  
2 12 drying, mixing, grinding, churning, separating, extracting,  
2 13 slaughtering, cutting, fermenting, distilling, eviscerating,  
2 14 preserving, dehydrating, freezing, chilling, or otherwise  
2 15 manufacturing, and includes the packaging, canning, jarring,  
2 16 or otherwise enclosing in a food container.  
2 17 12. "Processor" means a person engaged in the business of  
2 18 processing.  
2 19 13. "Producer" means a person who engages in the business  
2 20 of growing or producing food, fiber, feed, or other  
2 21 agricultural-based consumer products.  
2 22 14. "Regional organic association" means a corporation

2 23 authorized pursuant to section 190C.6.

2 24 15. "Retailer" means a person who sells agricultural  
2 25 products on a retail basis. "Retailer" includes a food  
2 26 establishment as defined in section 137F.1. "Retailer" also  
2 27 includes a restaurant, delicatessen, bakery, grocery store, or  
2 28 any retail outlet with an in-store restaurant, delicatessen,  
2 29 bakery, salad bar, or other eat-in or carry-out service of  
2 30 processed or prepared raw and ready-to-eat food.

2 31 16. "Secretary" means the secretary of agriculture who is  
2 32 the director of the department of agriculture and land  
2 33 stewardship.

2 34 Sec. 2. NEW SECTION. 190C.1A OTHER DEFINITIONS.

2 35 For purposes of this chapter, words and phrases that are  
3 1 not defined in section 190C.1 shall have the same meanings as  
3 2 provided in 7 C.F.R. pt. 205.

3 3 Sec. 3. NEW SECTION. 190C.1B GENERAL AUTHORITY.

3 4 Any provision in this chapter referring generally to  
3 5 compliance with the requirements of this chapter also includes  
3 6 compliance with requirements in rules adopted by the  
3 7 department pursuant to this chapter, orders issued by the  
3 8 department as authorized under this chapter, and the terms and  
3 9 conditions applicable to any certification made pursuant to  
3 10 this chapter.

3 11 Sec. 4. Section 190C.2, subsection 1, Code 2003, is  
3 12 amended to read as follows:

3 13 1. An organic ~~standards board~~ advisory council is  
3 14 established within the department. ~~The powers of the board~~  
3 15 ~~are vested in and shall be exercised by~~ council is composed of  
3 16 eleven members appointed by the governor and secretary, as  
3 17 provided in this section. The governor and secretary shall  
3 18 accept nominations from persons or organizations representing  
3 19 persons who serve on the board council, as determined by the  
3 20 governor and secretary making appointments under this section.

3 21 Sec. 5. Section 190C.2, subsection 2, unnumbered paragraph  
3 22 1, Code 2003, is amended to read as follows:

3 23 The members shall serve staggered terms of four years  
3 24 beginning and ending as provided in section 69.19. ~~However,~~  
3 25 ~~the governor and secretary shall cooperate to appoint initial~~  
3 26 ~~members to serve for less than four years to ensure members~~  
3 27 ~~serve staggered terms.~~ Members appointed under this section  
3 28 shall be persons knowledgeable regarding the production,  
3 29 handling, processing, and retailing of organic agricultural  
3 30 products. The members of the board council shall be appointed  
3 31 as follows:

3 32 Sec. 6. Section 190C.2, subsections 3, 4, 6, and 7, Code  
3 33 2003, are amended to read as follows:

3 34 3. A vacancy on the board council shall be filled in the  
3 35 same manner as an original appointment. A person appointed to  
4 1 fill a vacancy shall serve only for the unexpired portion of  
4 2 the term. A member is eligible for reappointment. The  
4 3 governor may remove a member appointed by the governor and the  
4 4 secretary may remove a member appointed by the secretary, if  
4 5 the removal is based on the member's misfeasance, malfeasance,  
4 6 or willful neglect of duty or other just cause, after notice  
4 7 and hearing, unless the notice and hearing is expressly waived  
4 8 in writing.

4 9 4. Six members of the board council constitute a quorum  
4 10 and the affirmative vote of a majority of the members present  
4 11 is necessary for any substantive action to be taken by the  
4 12 board council. The majority shall not include any member who  
4 13 has a conflict of interest and a statement by a member that  
4 14 the member has a conflict of interest is conclusive for this  
4 15 purpose. A vacancy in the membership does not impair the  
4 16 right of a quorum to exercise all rights and perform all  
4 17 duties of the board council.

4 18 6. If a member has an interest, either direct or indirect,  
4 19 in a contract to which the board council is or is to be a  
4 20 party, the member shall disclose the interest to the board  
4 21 council in writing. The writing stating the conflict shall be  
4 22 set forth in the minutes of the board council. The member  
4 23 having the interest shall not participate in any action by the  
4 24 board council relating to the contract.

4 25 7. The board council shall meet on a regular basis and at  
4 26 the call of the chairperson or upon the written request to the  
4 27 chairperson of two or more members. The department shall  
4 28 provide administrative support to the board council.

4 29 Sec. 7. NEW SECTION. 190C.2A DUTIES OF THE COUNCIL.

4 30 The organic advisory council shall assist the department in  
4 31 implementing and administering the provisions of this chapter  
4 32 as requested by the department. Upon request by the  
4 33 department, the council shall do all of the following:

4 34 1. Develop rules, policies, and procedures required to  
4 35 implement and administer this chapter.

5 1 2. Collect information required by the department in  
5 2 implementing and administering this chapter.

5 3 3. Interpret the requirements of this chapter, including  
5 4 rules adopted and orders issued pursuant to this chapter, and  
5 5 requirements of the national organic program.

5 6 4. Establish and change fees as provided in section  
5 7 190C.5.

5 8 5. Provide advice regarding the most effective manner to  
5 9 use services provided by regional organic associations as  
5 10 provided in section 190C.6.

5 11 6. Provide information and expert opinions relating to  
5 12 organic agricultural products to the department.

5 13 7. Provide information relating to organic agricultural  
5 14 products to interested persons.

5 15 8. Promote organic agricultural products to consumers.

5 16 Sec. 8. NEW SECTION. 190C.2B ESTABLISHMENT AND  
5 17 IMPLEMENTATION OF THIS CHAPTER.

5 18 1. The department shall implement and administer the  
5 19 provisions of this chapter for agricultural products that have  
5 20 been produced and handled within this state using organic  
5 21 methods as provided in this chapter. The department may  
5 22 consult with the council in implementing and administering  
5 23 this chapter. The department may certify agricultural  
5 24 products that have been produced and handled outside this  
5 25 state using an organic method as provided in this chapter.

5 26 2. The department may establish a state organic program as  
5 27 provided in 7 U.S.C. } 6501 et seq. and 7 C.F.R. pt. 205. The  
5 28 secretary may apply for any approval or accreditation or  
5 29 execute any agreement required under the national organic  
5 30 program in order to implement, administer, and enforce this  
5 31 chapter.

5 32 3. Unless prohibited by the national organic program, the  
5 33 attorney general may be joined as a party authorized to  
5 34 enforce the provisions of this chapter.

5 35 4. All provisions of this chapter shall be deemed in  
6 1 compliance with the national organic program, unless expressly  
6 2 provided otherwise by the United States department of  
6 3 agriculture.

6 4 Sec. 9. Section 190C.3, Code 2003, is amended by striking  
6 5 the section and inserting in lieu thereof the following:  
6 6 190C.3 DUTIES AND POWERS OF THE DEPARTMENT.

6 7 In implementing the provisions of this chapter consistent  
6 8 with the national organic program, the department shall  
6 9 provide for the administration and enforcement of this  
6 10 chapter, including by adopting rules and issuing orders  
6 11 pursuant to chapter 17A. The department may adopt any part of  
6 12 the national organic program by reference.

6 13 1. The department shall be a state certifying agent and  
6 14 the department shall be the certifying agent's operation as  
6 15 provided in the national organic program.

6 16 2. The department may request assistance from the council  
6 17 as provided in section 190C.2A or from one or more regional  
6 18 organic associations as provided in section 190C.6.

6 19 3. a. The secretary may serve as the state organic  
6 20 program's governing state official. However, no other person  
6 21 shall serve in that position without approval by the  
6 22 secretary.

6 23 b. The secretary may designate a person within the  
6 24 department to act on the secretary's behalf in carrying out  
6 25 the duties of the state organic program's governing state  
6 26 official.

6 27 4. The department may assume enforcement obligations under  
6 28 the national organic program in this state for the  
6 29 requirements of this chapter. The department shall provide  
6 30 for on-site inspections. The department and the attorney  
6 31 general may coordinate the enforcement activities as provided  
6 32 in section 190C.21.

6 33 Sec. 10. NEW SECTION. 190C.3A MORE RESTRICTIVE  
6 34 REQUIREMENTS.

6 35 The department may adopt rules that contain more  
7 1 restrictive requirements for agricultural products to be sold,  
7 2 labeled, or represented as organic than generally provided in  
7 3 the national organic program. The rules must be adopted in  
7 4 compliance with the national organic program. The department  
7 5 may also adopt different or supplemental procedural  
7 6 requirements than generally provided in the national organic  
7 7 program if the rules are adopted in compliance with the  
7 8 national organic program. The rules may include but are not  
7 9 limited to rules governing any of the following:

7 10 1. The establishment of a departmental seal for  
7 11 agricultural products that are sold, labeled, or represented  
7 12 as organic. A person shall not use the departmental seal to  
7 13 advertise an agricultural product, unless the person is  
7 14 authorized to use the seal by the department.  
7 15 2. The certification of producers, handlers, processors,  
7 16 or retailers who are not required to be certified pursuant to  
7 17 the general requirements of the national organic program.  
7 18 3. Additional information accompanying an application for  
7 19 certification by the council or a more extensive on-site  
7 20 inspection by the department prior to certification.  
7 21 4. The inspection of production or handling operations and  
7 22 the examination of agricultural products purported to be  
7 23 organic.  
7 24 5. More extensive recordkeeping or the maintenance of  
7 25 records for a longer period.  
7 26 6. The limitation or abrogation of a right to mediation,  
7 27 or revision in procedures for mediation.  
7 28 7. The imposition of fees which are not specifically  
7 29 provided by the national organic program.  
7 30 Sec. 11. Section 190C.5, Code 2003, is amended to read as  
7 31 follows:

7 32 190C.5 STATE FEES == DEPOSIT INTO GENERAL FUND OF THE  
7 33 STATE.

7 34 1. ~~a. The board department acting as a state certifying~~  
7 35 ~~agent shall establish a schedule of state fees under this~~  
~~8 1 chapter by rule adopted by the department for persons required~~  
~~8 2 to be certified as producers, handlers, and processors of~~  
~~8 3 agricultural products labeled, sold, or advertised as organic~~  
~~8 4 as provided in section 190C.13. The fees shall be charged to~~  
~~8 5 persons who are certified under this chapter, including~~  
~~8 6 production operations and handling operations, in a manner~~  
~~8 7 that is consistent with the national organic program.~~

8 8 2. ~~Beginning on July 1, 2000, the board~~ The department  
8 9 shall establish the rate of fees based on an estimate of the  
8 10 amount of revenues from the fees required by the department to  
8 11 administer and enforce this chapter.

8 12 ~~b. The department shall annually review the estimate and~~  
~~8 13 recommend a may change in the rate of fees to the board if~~  
~~8 14 the. The fees must be adjusted in order to comply with this~~  
~~8 15 subsection. The board may approve an adjustment in the fees~~  
~~8 16 by rule adopted by the department at any time in order to~~  
~~8 17 comply with this subsection.~~

8 18 2. ~~a. The department acting as a state certifying agent~~  
8 19 ~~may charge additional fees for carrying out the duties of that~~  
8 20 ~~position to the extent that the fees are consistent with the~~  
8 21 ~~national organic program.~~

8 22 ~~b. The secretary acting as the state organic program's~~  
8 23 ~~governing state official may charge fees for carrying out the~~  
8 24 ~~duties of that position to the extent consistent with the~~  
8 25 ~~national organic program.~~

8 26 3. The department shall collect state fees under this  
8 27 chapter ~~as provided by the board~~, which shall be deposited  
8 28 into the general fund of the state.

8 29 Sec. 12. Section 190C.6, Code 2003, is amended to read as  
8 30 follows:

8 31 190C.6 REGIONAL ORGANIC ASSOCIATIONS.

8 32 1. ~~Regional organic associations may be established as~~  
8 33 ~~provided in this section. A regional organic association must~~  
8 34 ~~be organized as a corporation under chapter 504A which has~~  
8 35 ~~certified members, elects its own officers and directors, and~~  
9 1 ~~is independent from the department.~~

9 2 2. ~~The department, upon approval by the board, may~~  
9 3 ~~authorize a regional organic association to assist the board~~  
9 4 ~~department in certifying producers, handlers, and processors~~  
~~9 5 of agricultural products under acting as a state certifying~~  
~~9 6 agent pursuant to section 190C.13 190C.3. The regional~~  
9 7 ~~organic association must be registered with the department.~~  
9 8 ~~The Upon request by the department, a registered regional~~  
9 9 ~~organic association, upon approval of the board, may~~  
~~9 10 administer the provisions of section 190C.13 by doing may do~~  
9 11 all of the following:

9 12 1- ~~a. Reviewing~~ Review applications and ~~providing provide~~  
9 13 applicants with technical assistance in completing  
9 14 applications. The department may authorize a regional organic  
9 15 association to process applications, including collecting and  
9 16 forwarding applications to the department.

9 17 2- ~~b. Preparing~~ Prepare a summary of an application,  
9 18 including materials accompanying the application, for review  
9 19 by the department ~~and the organic standards board~~. A regional  
9 20 organic association may include a recommendation for approval,

9 21 modification, or disapproval of an application.

9 22 Sec. 13. Section 190C.21, Code 2003, is amended to read as  
9 23 follows:

9 24 190C.21 GENERAL ENFORCEMENT.

9 25 ~~1. The department and the attorney general acting as a~~  
9 26 ~~state certifying agent and on behalf of the secretary who~~  
9 27 ~~elects to act as the state organic program's governing state~~  
9 28 ~~official shall enforce this chapter.~~

9 29 ~~2. The To the extent authorized by the national organic~~  
9 30 ~~program, the attorney general shall assist the department in~~  
9 31 ~~enforcing this chapter. The department or the attorney~~  
9 32 ~~general may commence legal proceedings in district court to~~  
9 33 ~~enforce a provision of this chapter. If the attorney general~~  
9 34 ~~assists the department under this section, the attorney~~

9 35 ~~general may commence the legal proceedings at the request of~~  
10 1 ~~the department or upon the attorney general's own initiative~~  
10 2 ~~in order to enforce this chapter, including rules adopted and~~  
10 3 ~~orders issued by the department pursuant to this chapter.~~

10 4 ~~3. This chapter does not require the attorney general or~~  
10 5 ~~the department or attorney general to institute a proceeding~~  
10 6 ~~for a minor violation, if the department or attorney general~~  
10 7 ~~or department concludes that the public interest will be best~~  
10 8 ~~served by a suitable notice of warning in writing.~~

10 9 Sec. 14. Section 190C.22, Code 2003, is amended to read as  
10 10 follows:

10 11 190C.22 INVESTIGATIONS, COMPLAINTS, INSPECTIONS, AND  
10 12 EXAMINATIONS.

10 13 ~~1. The In enforcing the provisions of this chapter~~  
10 14 ~~consistent with the national organic program, the department~~  
10 15 ~~may conduct an investigation to determine if a person is~~  
10 16 ~~complying with the requirements of this chapter. To the~~  
10 17 ~~extent consistent with the national organic program, all of~~  
10 18 ~~the following shall apply:~~

10 19 ~~2- 1. Any The department may receive a complaint from any~~  
10 20 ~~person may file a complaint with the department regarding a~~  
10 21 ~~violation of this chapter. The department shall adopt~~  
10 22 ~~procedures for persons filing complaints. The department~~  
10 23 ~~shall establish procedures for processing complaints including~~  
10 24 ~~requiring minimum information to determine the verifiability~~  
10 25 ~~of a complaint.~~

10 26 ~~3- 2. The department may conduct inspections at times and~~  
10 27 ~~places and to an extent that the department determines~~  
10 28 ~~necessary in order to conclude whether an agricultural product~~  
10 29 ~~is being produced, handled, processed, or sold in accordance~~  
10 30 ~~with the provisions there is a violation of this chapter. The~~  
10 31 ~~department may inspect records required to be maintained~~  
10 32 ~~pursuant to section 190C.15. The department may enter upon~~  
10 33 ~~any public or private premises during regular business hours~~  
10 34 ~~in a manner consistent with the laws of this state and the~~  
10 35 ~~United States, including Article I, section 8, of the~~  
11 1 ~~Constitution of the State of Iowa, or the fourth amendment to~~  
11 2 ~~the Constitution of the United States for purposes of carrying~~  
11 3 ~~out an inspection.~~

11 4 ~~4- 3. The department may conduct examinations of~~  
11 5 ~~agricultural products in order to determine if the~~  
11 6 ~~agricultural products are produced, handled, processed, and~~  
11 7 ~~sold in compliance with this chapter. Unless the national~~  
11 8 ~~organic program otherwise requires, all of the following shall~~  
11 9 ~~apply:~~

11 10 a. The methods for examination shall be the official  
11 11 methods ~~of adopted by~~ the association of official agricultural  
11 12 chemists in all cases where methods have been adopted by the  
11 13 association.

11 14 b. A sworn statement by the state chemist or the state  
11 15 chemist's deputy stating the results of an analysis of a  
11 16 sample taken from a lot of agricultural products shall  
11 17 constitute prima facie evidence of the correctness of the  
11 18 analysis of that lot in ~~an administrative hearing a contested~~  
11 19 ~~case proceeding or court of this state proceeding.~~

11 20 Sec. 15. Section 190C.23, Code 2003, is amended by  
11 21 striking the section and inserting in lieu thereof the  
11 22 following:

11 23 190C.23 DISCIPLINARY ACTION.

11 24 1. The department may take disciplinary action against a  
11 25 person who is certified pursuant to this chapter for  
11 26 noncompliance with a provision of this chapter or a willful  
11 27 violation of this chapter. The procedures of the disciplinary  
11 28 action shall be consistent with the national organic program.  
11 29 The disciplinary action shall proceed as provided in chapter  
11 30 17A unless contrary to the national organic program. The  
11 31 department may do any of the following:

11 32 a. Issue a letter of warning or reprimand.  
11 33 b. Suspend or revoke the person's certification.  
11 34 2. Any other disciplinary action provided in the national  
11 35 organic program shall be implemented by the secretary acting  
12 1 as the state organic program's governing state official.  
12 2 Sec. 16. Section 190C.24, subsection 1, Code 2003, is  
12 3 amended to read as follows:  
12 4 ~~1. If Unless prohibited by the national organic program,~~  
12 5 ~~the department may issue a stop order to a person who sells,~~  
12 6 ~~labels, or represents an agricultural product as organic in~~  
12 7 ~~violation of this chapter, including a rule adopted or an~~  
12 8 ~~order issued under this chapter, the~~  
12 9 1. The department may issue a written order to stop the  
12 10 sale of the agricultural product by a person in control of the  
12 11 agricultural product. The person named in the order shall not  
12 12 sell, label, or represent the ~~item~~ agricultural product is  
12 13 organic until the department determines that ~~the sale of the~~  
12 14 agricultural product is in compliance with this chapter.  
12 15 Sec. 17. Section 190C.24, subsection 4, Code 2003, is  
12 16 amended to read as follows:  
12 17 4. The department shall release the agricultural product  
12 18 when the department issues a release order upon satisfaction  
12 19 that legal requirements compelling the issuance of the stop  
12 20 sale order are satisfied. ~~The board must approve a delay in~~  
12 21 ~~issuing a release order within three months after requiring~~  
12 22 ~~that the agricultural product be held.~~ If the person is found  
12 23 to have violated this chapter, the person shall pay all  
12 24 expenses incurred by the department in connection with the  
12 25 agricultural product's removal.  
12 26 Sec. 18. Section 190C.25, Code 2003, is amended to read as  
12 27 follows:  
12 28 190C.25 INJUNCTIONS.  
12 29 ~~The attorney general,~~ Unless prohibited by the national  
12 30 organic program, the department, ~~or the attorney general,~~ an  
12 31 individual, a private organization or association, a county,  
12 32 or a city may bring an action in district court to restrain a  
12 33 producer, ~~processor,~~ handler, or retailer from selling an  
12 34 agricultural product by false or misleading advertising  
12 35 claiming that the agricultural product is organic. A  
13 1 petitioner shall not be required to allege facts necessary to  
13 2 show, or tending to show, a lack of adequate remedy at law, or  
13 3 that irreparable damage or loss will result if the action is  
13 4 brought at law or that unique or special circumstances exist.  
13 5 Sec. 19. Section 190C.26, Code 2003, is amended to read as  
13 6 follows:  
13 7 190C.26 SELLING, LABELING, OR REPRESENTING AGRICULTURAL  
13 8 PRODUCTS AS ORGANIC == PENALTIES.  
13 9 A person ~~who violates this chapter is~~ shall not knowingly  
13 10 sell, label, or represent an agricultural product as organic,  
13 11 except in accordance with this chapter. ~~A person who violates~~  
13 12 ~~this section shall be~~ subject to a civil penalty of not more  
13 13 than ~~five~~ ten thousand dollars. Civil penalties shall be  
13 14 assessed by the district court in an action initiated by the  
13 15 department or attorney general as provided in section 190C.21.  
13 16 ~~Each Unless prohibited by the national organic program, each~~  
13 17 ~~day that the offense violation~~ continues constitutes a  
13 18 separate offense violation. Civil penalties collected under  
13 19 this section shall be deposited in the general fund of the  
13 20 state.  
13 21 Sec. 20. DIRECTIONS TO CODE EDITOR. The Code editor is  
13 22 directed to reorganize and renumber the provisions of chapter  
13 23 190C to enhance its readability. The Code editor may  
13 24 reorganize the provisions in the 2003 Code Supplement or the  
13 25 2005 Code. Nothing in this section limits the Code editor's  
13 26 authority under section 2B.13.  
13 27 Sec. 21. Sections 190C.4, 190C.12, 190C.13, 190C.14, and  
13 28 190C.15, Code 2003, are repealed.  
13 29 Sec. 22. EFFECTIVE DATE. This Act, being deemed of  
13 30 immediate importance, takes effect upon enactment.  
13 31 EXPLANATION  
13 32 BACKGROUND. This bill substantially revises Code chapter  
13 33 190C providing for organic agricultural products as  
13 34 administered by the department of agriculture and land  
13 35 stewardship (department). The Code chapter was enacted in  
14 1 Senate File 2332 during the 1998 Legislative Session. Senate  
14 2 File 2332 was in response to a federal Act referred to as the  
14 3 federal Organic Food Production Act of 1990. Senate File 2332  
14 4 in part provided that the department was not required to  
14 5 implement all of its provisions until it received necessary  
14 6 accreditation or approval by the United States department of  
14 7 agriculture (USDA). Late in 2000, the USDA adopted final

14 8 rules governing requirements for agricultural products which  
14 9 are sold, labeled, or represented as organic, known as the  
14 10 national organic program (NOP). Current provisions in Code  
14 11 chapter 190C may be in conflict with the federal regulations.  
14 12 ADMINISTRATIVE ORGANIZATION. Current Code chapter 190C is  
14 13 administered jointly by the department and an organic  
14 14 standards board composed of members appointed by the governor  
14 15 and the secretary of agriculture. The board approves  
14 16 applications for certification, establishes procedures  
14 17 governing appeals of decisions made by the department or  
14 18 board, and establishes a fee structure for certification. The  
14 19 bill provides that the department performs these duties. The  
14 20 name of the board is changed to the organic advisory council  
14 21 and its functions are made advisory. The bill does not  
14 22 substantially modify the role of regional organic associations  
14 23 responsible for assisting in certification. The department  
14 24 retains its existing authority to administer the Code chapter,  
14 25 including by providing for inspections, the examination of  
14 26 agricultural products, and the issuance of stop orders. The  
14 27 attorney general retains authority to enforce the Code  
14 28 chapter's provisions in court. The bill does not  
14 29 significantly amend provisions providing for a private right  
14 30 of attorney general.

14 31 To the extent that the bill amends these provisions, it  
14 32 uses language contained in the NOP, it provides more  
14 33 prominence to the department rather than the attorney general,  
14 34 and it repeats that provisions which supplement the NOP apply  
14 35 only to the extent allowed by federal law.

15 1 COMPLIANCE WITH FEDERAL REQUIREMENTS. The bill requires  
15 2 the department to adopt provisions of the NOP by  
15 3 administrative rule. The bill eliminates the statutory  
15 4 provisions establishing standards for agricultural products to  
15 5 be considered organic. The NOP contains extensive standards  
15 6 for the production and handling of agricultural products which  
15 7 are to be labeled, sold, or represented as organic. Specific  
15 8 Code sections which are repealed include Code sections 190C.12  
15 9 (providing standards), 190C.13 (providing for certification),  
15 10 190C.14 (providing for labeling), and 190C.15 (providing for  
15 11 records). In addition, the bill eliminates specific  
15 12 references to processors and retailers since the NOP  
15 13 specifically regulates producers and handlers, but considers  
15 14 certain processors as handlers.

15 15 Under federal regulation, the USDA accredits private or  
15 16 governmental entities as certifying agents responsible for  
15 17 certifying producers and handlers. The bill authorizes the  
15 18 department to become a state certifying agent. The NOP also  
15 19 provides that a state official may assume the role of the  
15 20 state organic program's governing state official, largely  
15 21 responsible for enforcing the state organic program. The bill  
15 22 provides that the secretary of agriculture may serve in that  
15 23 position upon approval by the USDA. The federal regulations  
15 24 allow a state to adopt more restrictive requirements if  
15 25 approved by the USDA. The federal regulations also allow the  
15 26 department to provide different procedural requirements than  
15 27 the NOP provides, and the bill also authorizes the department  
15 28 to adopt different rules if done in compliance with USDA  
15 29 requirements.

15 30 CIVIL PENALTY. The bill increases the civil penalty for  
15 31 violations of the Code chapter from \$5,000 to \$10,000 in  
15 32 conformance with the NOP. Code chapter 190C provides that the  
15 33 penalty applies for any violation of the Code chapter. The  
15 34 bill provides that the penalty applies to a person who  
15 35 knowingly sells, labels, or represents an agricultural product  
16 1 as organic, except as provided in the Code chapter adopting  
16 2 the state organic program.

16 3 CODE EDITOR DIRECTIVE. The bill directs the Code editor to  
16 4 rearrange and renumber the Code sections in the Code chapter  
16 5 in order to enhance the readability of the chapter.

16 6 EFFECTIVE DATE. The bill takes effect upon enactment.

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