

FILED APR 27 2001

SENATE FILE **539**  
BY IVERSON

(COMPANION TO LSB 3653YH  
BY RANTS)

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

**A BILL FOR**

1 An Act relating to certain grain crops originating from  
2 agricultural seeds that have been genetically modified using  
3 biotechnological techniques, providing for liability, and  
4 providing for penalties.

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

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SF 539  
AGRICULTURE

1 Section 1. NEW SECTION. 202B.1 DEFINITIONS.

2 1. "Agricultural seed" means the same as defined in  
3 section 199.1.

4 2. "Biotechnological technique" means a practice used to  
5 alter the genetic characteristics of a plant by modifying the  
6 deoxyribonucleic acid of the plant's seed in a manner other  
7 than by using a conventional technique.

8 3. "Contamination" means the unintended presence of a seed  
9 or a plant or plant part that originates from a seed, if the  
10 seed has been genetically modified by using a biotechnological  
11 technique.

12 4. "Conventional technique" means a practice used to alter  
13 the genetic characteristics of a plant by modifying the  
14 deoxyribonucleic acid of the plant's seed by breeding or  
15 pollination.

16 5. "Crop" means any plant originating from an agricultural  
17 seed that belongs to a species produced for its parts or  
18 products having commercial value.

19 6. "Designated grain crop" means a grain crop that meets  
20 the requirements of section 202B.2.

21 7. "Grain crop" means a crop that produces grain as  
22 defined in section 203.1.

23 8. "Neighboring field" means land where agricultural seed  
24 used to produce a grain crop may be planted, that adjoins or  
25 is adjacent to an originating field, and is owned by a person  
26 other than the person who owns the originating field.

27 9. "Originating field" means land where agricultural seed  
28 that is genetically modified using a biotechnological  
29 technique and used to produce a grain crop has been planted.

30 10. "Seed dealer" means a person who sells or offers for  
31 sale agricultural seed to persons on a retail basis.

32 11. "Seed labeler" means a person required to label  
33 agricultural seed as provided in section 199.3 or 199.4.

34 12. "Seed technology provider" means a person who in  
35 preparing for sale agricultural seed required to be labeled

1 pursuant to section 199.3 or 199.4 genetically modifies the  
2 agricultural seed by using a biotechnological technique.

3 Sec. 2. NEW SECTION. 202B.2 DESIGNATED GRAIN CROP --  
4 APPLICABILITY.

5 This chapter applies to a designated grain crop. A  
6 designated grain crop originates from an agricultural seed  
7 that has been genetically modified using a biotechnological  
8 technique, that is sold or offered for sale in this state, and  
9 on December 1 of the previous year meets any one of the  
10 following criteria:

11 1. Any grain produced from the grain crop or any food  
12 manufactured from that grain was prohibited from sale or use  
13 for human consumption by an agency of the federal government,  
14 including but not limited to the United States food and drug  
15 administration.

16 2. A major nation importer of grain that is produced from  
17 a specific species of grain crop prohibited the import of the  
18 grain because it was produced from agricultural seed  
19 genetically modified by using a biotechnological technique.  
20 The department of agriculture and land stewardship shall adopt  
21 rules pursuant to chapter 17A that lists each major nation  
22 importer of grain that is produced from a specific species of  
23 grain crop, which may be based on statistics compiled by the  
24 United States department of agriculture.

25 Sec. 3. NEW SECTION. 202B.3 SOUND PRODUCTION PRACTICES.

26 As used in this chapter, a person produces the designated  
27 grain crop using sound production practices by planting  
28 agricultural seed used to produce the designated grain crop on  
29 an originating field a minimum distance from a neighboring  
30 field, and by complying with methods to maintain the separated  
31 area in order to ensure a minimal risk of contamination  
32 occurring from any of the following:

33 1. The transfer of gene characteristics to another crop  
34 planted on a neighboring field by pollination, including by  
35 pollination of the crop or the pollination of other related

1 plants inhabiting the neighboring field.

2 2. The transfer of agricultural seed used to produce a  
3 designated grain crop to the neighboring field.

4 For property that includes a road right-of-way, railroad  
5 right-of-way, or an access easement, a neighboring field's  
6 property line shall not be the boundary line of the right-of-  
7 way or easement.

8 Sec. 4. NEW SECTION. 202B.4 SECURITY REQUIREMENTS.

9 A seed labeler or seed technology provider shall not sell  
10 or offer for sale agricultural seed used to produce a  
11 designated grain crop to a person for the production of the  
12 designated grain crop, except as provided in this section.  
13 The seed labeler or seed technology provider must provide a  
14 security policy for the designated grain crop as required by  
15 rules adopted by the department of agriculture and land  
16 stewardship. The security policy shall provide for any one of  
17 the following:

18 1. A security plan or amendments to the security plan  
19 submitted to and approved by the department as required by the  
20 department. The security plan shall ensure a closed system  
21 that provides a minimal risk of contamination including  
22 contamination occurring because of any of the following:

23 a. Prior to harvest, the designated grain crop  
24 contaminates another crop that is not a designated grain crop,  
25 produced on a neighboring field. The security plan shall  
26 include a description of sound production practices as  
27 provided in section 202B.3.

28 b. After harvest, the designated grain crop or goods  
29 processed from the designated grain crop contaminates a crop  
30 that is not a designated grain crop or goods that are not  
31 processed from a designated grain crop.

32 The closed system shall provide for planting the  
33 agricultural seed; for producing, harvesting, and storing the  
34 designated grain crop; and for disposing of, transporting,  
35 processing, marketing, and utilizing the designated grain crop

1 or goods processed from the designated grain crop. The  
2 security plan shall be accompanied by all necessary  
3 certifications by persons who will maintain the designated  
4 grain crop or dispose of, transport, process, market, or  
5 utilize the designated grain crop or goods processed from the  
6 designated grain crop.

7 2. The dissemination of production information by the seed  
8 technology provider or seed labeler to each seed dealer  
9 selling agricultural seed used to produce a designated crop  
10 for distribution to every person who produces a designated  
11 grain crop originating from the agricultural seed prepared by  
12 the seed technology provider or labeled by the seed labeler.  
13 The production information shall include a description of  
14 sound production practices as provided in section 202B.3.

15 Sec. 5. NEW SECTION. 202B.5 CIVIL LIABILITY.

16 1. A person who produces a designated grain crop shall not  
17 be found liable for damages caused by contamination if the  
18 person produces the designated grain crop in accordance with  
19 sound production practices.

20 2. a. A person suffering damages resulting from  
21 contamination may bring an action in district court against a  
22 seed technology provider or seed labeler to recover three  
23 times all actual and consequential damages.

24 b. A prevailing plaintiff in an action brought under this  
25 section shall be awarded court costs and reasonable attorney  
26 fees, which shall be taxed as part of the costs of the action.

27 3. A seed dealer shall not be found liable for damages  
28 caused by contamination if any of the following applies:

29 a. The seed dealer distributes information regarding a  
30 security policy for the agricultural seed used to produce a  
31 designated grain crop that has caused the contamination. The  
32 information may be either a notice that the designated grain  
33 crop is subject to a security plan filed with and approved by  
34 the department of agriculture and land stewardship or  
35 production information received from the seed technology

1 provider or seed labeler including a description of sound  
2 production practices as provided in section 202B.3.

3 b. The seed technology provider or seed labeler fails to  
4 file a security plan with the department of agriculture and  
5 land stewardship or fails to provide production information to  
6 the seed dealer.

7 4. A provision in a contract, a waiver, or a condition of  
8 a transaction that provides for the liability of a person  
9 contrary to this subsection is void and unenforceable.

10 Sec. 6. NEW SECTION. 202B.6 ENFORCEMENT.

11 The attorney general shall institute suits on behalf of the  
12 state to enforce this chapter.

13 Sec. 7. NEW SECTION. 202B.7 CRIMINAL PENALTIES.

14 A person who violates this chapter is guilty of an  
15 aggravated misdemeanor.

16 EXPLANATION

17 This bill relates to the contamination from genetic  
18 material originating from agricultural seeds that have been  
19 genetically modified using biotechnological techniques. The  
20 bill regulates a designated grain crop. In order to be  
21 classified as a designated grain crop, the crop must originate  
22 from genetically modified agricultural seed sold in the state  
23 and on December 1 of the previous year the crop's grain must  
24 have been prohibited for use for human consumption by the  
25 federal government, or a major nation importer of grain  
26 produced from a specific species of grain crop must have  
27 prohibited the import of the grain because it was produced  
28 from agricultural seed that was genetically modified using  
29 biotechnological techniques.

30 The bill provides that a person who develops the seed  
31 (referred to as the "seed technology provider") or the person  
32 required to label the seed under chapter 199 (referred to as  
33 the "seed labeler") must provide for a security policy. The  
34 policy may be a security plan approved by the department of  
35 agriculture and land stewardship that provides for a closed

1 system that provides a minimal risk of contamination or the  
2 dissemination of production information that is made available  
3 to crop producers. In both cases, the policy must provide for  
4 sound production practices that include planting the  
5 designated grain crop seed a minimum distance from the  
6 boundary of a neighboring field and methods to maintain the  
7 separated area in order to ensure a minimal risk of  
8 contamination.

9 The bill provides that a person who produces a designated  
10 grain crop is not liable for damages caused by contamination  
11 if the person produces the designated grain crop in accordance  
12 with sound production practices. The bill provides that a  
13 person suffering damages from contamination may bring an  
14 action in district court against a seed technology provider or  
15 seed labeler to recover three times all actual and  
16 consequential damages. The bill provides that a seed dealer  
17 shall not be found liable for damages caused by contamination  
18 if the seed dealer disseminates production information  
19 regarding the security policy for the designated grain crop,  
20 or if the seed labeler or seed technology provider fails to  
21 provide such production information to the seed dealer.

22 The bill provides that a person who violates a provision of  
23 the chapter is guilty of an aggravated misdemeanor. An  
24 aggravated misdemeanor is punishable by confinement for no  
25 more than two years and a fine of at least \$500 but not more  
26 than \$5,000.

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