

116TH CONGRESS
2D SESSION

S. 3419

To amend the Packers and Stockyards Act, 1921, to provide for the establishment of a trust for the benefit of all unpaid cash sellers of livestock, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2020

Mr. INHOFE (for himself, Ms. SMITH, Mr. CRAMER, Mr. HOEVEN, Ms. ERNST, Mr. DAINES, Mr. TESTER, Mrs. HYDE-SMITH, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Packers and Stockyards Act, 1921, to provide for the establishment of a trust for the benefit of all unpaid cash sellers of livestock, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing All Livestock
5 Equitably Act of 2020” or the “SALE Act of 2020”.

1 **SEC. 2. ESTABLISHMENT OF TRUST FOR BENEFIT OF UN-**
2 **PAID CASH SELLERS OF LIVESTOCK.**

3 Title III of the Packers and Stockyards Act, 1921
4 (7 U.S.C. 201 et seq.), is amended by adding at the end
5 the following:

6 **“SEC. 318. STATUTORY TRUST ESTABLISHED; DEALER.**

7 “(a) DEFINITION OF CASH SALE.—In this section,
8 the term ‘cash sale’ means a sale in which the seller does
9 not expressly extend credit to the buyer.

10 “(b) ESTABLISHMENT.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), all livestock purchased by a dealer in cash
13 sales and all inventories of, or receivables or pro-
14 ceeds from, that livestock shall be held by the dealer
15 in trust for the benefit of all unpaid cash sellers of
16 that livestock until full payment has been received
17 by those unpaid cash sellers.

18 “(2) EXEMPTION.—This section shall not apply
19 to a dealer the amount of average annual purchases
20 of livestock of which does not exceed \$100,000.

21 “(3) EFFECT OF DISHONORED INSTRU-
22 MENTS.—For purposes of determining full payment
23 under paragraph (1), a payment to an unpaid cash
24 seller shall not be considered to have been made if
25 the unpaid cash seller receives a payment instrument
26 that is dishonored.

1 “(c) PRESERVATION OF TRUST.—An unpaid cash
2 seller shall lose the benefit of a trust under subsection (b)
3 if the unpaid cash seller has not preserved the trust by—

4 “(1) providing a written notice to the applicable
5 dealer of the intent of the unpaid cash seller to pre-
6 serve the benefits of the trust; and

7 “(2) filing that notice with the Secretary—

8 “(A) not later than 30 days after the final
9 date for making a payment under section 409
10 in the event that a payment instrument has not
11 been received; or

12 “(B) not later than 15 business days after
13 the date on which the seller receives notice that
14 the payment instrument promptly presented for
15 payment has been dishonored.

16 “(d) NOTICE TO LIEN HOLDERS.—Not later than 15
17 business days after the date on which a dealer receives
18 notice under subsection (c)(1) with respect to a trust, the
19 dealer shall give notice of the intent of the unpaid cash
20 seller to preserve the benefits of the trust to all persons
21 who have recorded a security interest in, or lien on, the
22 livestock held in that trust.

23 “(e) PURCHASE OF LIVESTOCK SUBJECT TO
24 TRUST.—

1 “(1) IN GENERAL.—A buyer in the ordinary
 2 course that purchases livestock that is held in trust
 3 by a dealer under subsection (b) shall receive good
 4 title to the livestock free of the dealer trust if the
 5 buyer receives the livestock—

6 “(A) in exchange for payment of new
 7 value; and

8 “(B) in good faith and without notice that
 9 the transfer is a breach of trust.

10 “(2) PAYMENT.—Payment shall not be consid-
 11 ered to have been made under paragraph (1)(A) if
 12 a payment instrument given in exchange for the live-
 13 stock is dishonored.

14 “(f) TRANSFER OF LIVESTOCK SUBJECT TO
 15 TRUST.—A transfer of livestock that is held in trust by
 16 a dealer under subsection (b) shall not be considered to
 17 be for new value under subsection (e)(1)(A) if the transfer
 18 is—

19 “(1) in satisfaction of an antecedent debt; or

20 “(2) to a secured party pursuant to a security
 21 agreement.

22 “(g) ENFORCEMENT.—

23 “(1) IN GENERAL.—The Secretary shall carry
 24 out at least one of the enforcement activities de-

1 scribed in paragraph (2) if the Secretary has reason
2 to believe that—

3 “(A) a dealer has failed to perform the du-
4 ties required by subsection (b) with respect to
5 a trust under that subsection; or

6 “(B) carrying out an enforcement activity
7 is in the best interest of an unpaid cash seller.

8 “(2) ENFORCEMENT ACTIVITIES.—The enforce-
9 ment activities referred to in paragraph (1) are the
10 following:

11 “(A) Appointing an independent trustee to
12 carry out the duties of the trustee in accord-
13 ance with this section, preserve trust assets,
14 and enforce a trust.

15 “(B) Serving as an independent trustee,
16 preserving trust assets, and enforcing a trust.

17 “(C) Bringing a civil action in the district
18 court of the United States for the judicial dis-
19 trict in which the dealer resides—

20 “(i) to enjoin a dealer from per-
21 forming the duties required by subsection
22 (b); and

23 “(ii) to preserve trust assets and en-
24 force a trust.

1 “(3) EFFECT ON UNPAID SELLERS.—Nothing
2 in this subsection precludes an unpaid cash seller
3 from bringing a civil action in a court of competent
4 jurisdiction to preserve or enforce a trust under sub-
5 section (b).”.

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