

116TH CONGRESS
2D SESSION

S. 3693

To amend the Agricultural Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2020

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

A BILL

To amend the Agricultural Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers.

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. SPOT MARKET PURCHASES OF LIVESTOCK BY**
4 **PACKERS.**

5 Chapter 5 of subtitle B of the Agricultural Marketing
6 Act of 1946 (7 U.S.C. 1636 et seq.) is amended—

1 (1) by redesignating section 260 (7 U.S.C.
2 1636i) as section 261; and

3 (2) by inserting after section 259 the following:

4 **“SEC. 260. SPOT MARKET PURCHASES OF LIVESTOCK BY**
5 **PACKERS.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) COVERED PACKER.—

8 “(A) IN GENERAL.—The term ‘covered
9 packer’ means a packer that is required under
10 this subtitle to report to the Secretary each re-
11 porting day information on the price and quan-
12 tity of livestock purchased by the packer.

13 “(B) EXCLUSION.—The term ‘covered
14 packer’ does not include a packer that owns
15 only 1 livestock processing plant.

16 “(2) LIVESTOCK.—The term ‘livestock’ does not
17 include—

18 “(A) pork;

19 “(B) poultry;

20 “(C) a dairy-bred, dairy-bred cross, or beef
21 animal over 30 months of age; or

22 “(D) a foreign-born beef animal.

23 “(3) NONAFFILIATED PRODUCER.—The term
24 ‘nonaffiliated producer’ means a producer of live-
25 stock—

1 “(A) that sells livestock to a packer;

2 “(B) that has less than 1 percent equity
3 interest in the packer, which packer has less
4 than 1 percent equity interest in the producer;

5 “(C) that has no officers, directors, em-
6 ployees, or owners that are officers, directors,
7 employees, or owners of the packer;

8 “(D) that has no fiduciary responsibility to
9 the packer; and

10 “(E) in which the packer has no equity in-
11 terest.

12 “(4) SPOT MARKET SALE.—

13 “(A) IN GENERAL.—The term ‘spot mar-
14 ket sale’ means a purchase and sale of livestock
15 by a packer from a producer—

16 “(i) under an agreement that specifies
17 a firm base price that may be equated with
18 a fixed dollar amount on the date the
19 agreement is entered into;

20 “(ii) under which the livestock are
21 slaughtered not more than 14 days after
22 the date on which the agreement is entered
23 into; and

24 “(iii) under circumstances in which a
25 reasonable competitive bidding opportunity

1 exists on the date on which the agreement
2 is entered into.

3 “(B) REASONABLE COMPETITIVE BIDDING
4 OPPORTUNITY.—For the purposes of subpara-
5 graph (A)(iii), circumstances in which a reason-
6 able competitive bidding opportunity shall be
7 considered to exist if—

8 “(i) no written or oral agreement pre-
9 cludes the producer from soliciting or re-
10 ceiving bids from other packers; and

11 “(ii) no circumstance, custom, or
12 practice exists that—

13 “(I) establishes the existence of
14 an implied contract (as determined in
15 accordance with the Uniform Com-
16 mercial Code); and

17 “(II) precludes the producer from
18 soliciting or receiving bids from other
19 packers.

20 “(b) GENERAL RULE.—Of the quantity of livestock
21 that is slaughtered by a covered packer during each re-
22 porting day in each plant, the covered packer shall slaugh-
23 ter not less than 50 percent of the quantity through spot
24 market sales from nonaffiliated producers.

1 “(c) NONPREEMPTION.—Notwithstanding section
2 259, this section does not preempt any requirement of a
3 State or political subdivision of a State that requires a
4 covered packer to purchase on the spot market a greater
5 percentage of the livestock purchased by the covered pack-
6 er than is required under this section.

7 “(d) RELATIONSHIP TO OTHER PROVISIONS.—Noth-
8 ing in this section affects the interpretation of any other
9 provision of this Act, including section 202.”.

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