

107TH CONGRESS
2^D SESSION

H. R. 5247

To amend the Agricultural Marketing Act of 1946 to increase competition and transparency among packers required to report information on the price and quantity of livestock purchased by the packer.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2002

Mr. LATHAM (for himself, Mr. GANSKE, Mr. NUSSLE, and Mr. THUNE) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Agricultural Marketing Act of 1946 to increase competition and transparency among packers required to report information on the price and quantity of livestock purchased by the packer.

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 “Livestock Packer and
5 Producer Fairness Act of 2002”.

1 **SEC. 2. REQUIRED SPOT MARKET PURCHASES OF LIVE-**
 2 **STOCK BY PACKERS.**

3 (a) IN GENERAL.—Chapter 5 of subtitle B of the Ag-
 4 ricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.)
 5 is amended by adding at the end of the following new sec-
 6 tion:

7 **“SEC. 260. REQUIRED SPOT MARKET PURCHASES OF LIVE-**
 8 **STOCK BY PACKERS.**

9 “(a) DEFINITIONS.—In this section—

10 “(1) COOPERATIVE.—The term ‘cooperative’
 11 has the meaning given the term ‘cooperative associa-
 12 tion of producers’ in section 1a of the Commodity
 13 Exchange Act (7 U.S.C. 1a).

14 “(2) COVERED PACKER.—The term ‘covered
 15 packer’ means a packer that is required under this
 16 subtitle to report to the Secretary each reporting
 17 day information on the price and quantity of live-
 18 stock purchased by the packer. The term does not
 19 include a packer that owns only one livestock proc-
 20 essing plant.

21 “(3) NONAFFILIATED PRODUCER.—The term
 22 ‘nonaffiliated producer’ means a producer that—

23 “(A) sells livestock to a packer in which
 24 the packer has no equity interest;

25 “(B) has less than one percent equity in-
 26 terest in the packer and the packer has less

1 than one percent equity interest in the pro-
2 ducer;

3 “(C) has no officers, directors, employees,
4 or owners that are officers, directors, employ-
5 ees, or owners of the packer; and

6 “(D) has no fiduciary responsibility to the
7 packer.

8 “(4) SPOT MARKET PURCHASE.—The term
9 ‘spot market purchase’ means the purchase of live-
10 stock by a packer under circumstances in which—

11 “(A) the purchase agreement specifies a
12 firm base price that may be equated with a
13 fixed dollar amount on the day the agreement
14 is entered into;

15 “(B) the livestock are to be slaughtered
16 not more than seven days after the date of the
17 agreement;

18 “(C) no other written or oral agreement
19 precludes the seller of the livestock from solici-
20 tating or receiving bids from other packers; and

21 “(D) no circumstances, customs, or prac-
22 tices exist that establishes the existence of an
23 implied contract, as defined by the Uniform
24 Commercial Code, or precludes the seller of the

1 livestock from soliciting or receiving bids from
2 other packers.

3 “(b) SPOT MARKET PURCHASES REQUIRED.—Of the
4 quantity of livestock slaughtered by a covered packer dur-
5 ing each reporting day in each plant of the packer, the
6 covered packer shall slaughter not less than the applicable
7 percentage specified in subsection (c) or (d) of livestock
8 that were purchased by the packer through spot market
9 purchases from nonaffiliated producers.

10 “(c) APPLICABLE PERCENTAGES.—Except as pro-
11 vided in subsection (d), the applicable percentage shall
12 be—

13 “(1) 12.5 percent for a covered packer that is
14 a cooperative; and

15 “(2) 25 percent for a covered packer that is not
16 a cooperative.

17 “(d) TRANSITIONAL PERCENTAGES.—

18 “(1) SPECIAL RULE FOR COOPERATIVES.—In
19 the case of a covered packer that is a cooperative
20 and that reported more than 87.5 percent captive
21 supply cattle in its 2001 annual report to the Sec-
22 retary, the applicable percentage shall be the greater
23 of—

24 “(A) the difference between 100 and the
25 percentage of captive supply so reported; and

1 “(B) the following percentages:

2 “(i) During each of the calendar years
3 of 2004 and 2005, 5 percent.

4 “(ii) During each of the calendar
5 years of 2006 and 2007, 7.5 percent.

6 “(iii) During the calendar year 2008
7 and each calendar year thereafter, 12.5
8 percent.

9 “(2) SPECIAL RULE FOR OTHER COVERED
10 PACKERS.—In the case of a covered packer that is
11 not a cooperative and that reported more than 87.5
12 percent captive supply cattle in its 2001 annual re-
13 port to the Secretary, the applicable percentage shall
14 be the greater of—

15 “(A) the difference between 100 and the
16 percentage of captive supply so reported; and

17 “(B) the following percentages:

18 “(i) During each of the calendar years
19 of 2004 and 2005, 5 percent.

20 “(ii) During each of the calendar
21 years of 2006 and 2007, 15 percent.

22 “(iii) During the calendar year 2008
23 and each calendar year thereafter, 25 per-
24 cent.

1 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall affect the interpretation of any other provision
3 of this Act, including section 202.”.

4 (b) NONPREEMPTION.—Section 259 of the Agricul-
5 tural Marketing Act of 1946 (7 U.S.C. 1636h) is
6 amended—

7 (1) by inserting “(a) REPORTING AND PUBLI-
8 CATION OF INFORMATION.—” after “In order”; and

9 (2) by adding at the end of the following new
10 subsection:

11 “(b) SPOT MARKET PURCHASES.—This section does
12 not preempt any requirement of a State or political sub-
13 division of a State that requires a packer to purchase on
14 the spot market a greater percentage of the livestock pur-
15 chased by the packer than is required under section 260.”.

16 (c) APPLICATION OF AMENDMENT.—The amendment
17 made by subsection (a) shall apply to covered producers
18 (as defined in such amendment) beginning January 1,
19 2004.

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