

117TH CONGRESS
1ST SESSION

S. 949

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

MARCH 24, 2021

Mr. GRASSLEY (for himself, Mr. TESTER, Mr. HOEVEN, Ms. SMITH, Ms. ERNST, Mr. WYDEN, Mr. ROUNDS, Mr. BOOKER, 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 covered pack-
 2 er; and

3 “(B)(i) that has less than 1 percent equity
 4 interest in that covered packer;

5 “(ii) in which that covered packer has less
 6 than 1 percent equity interest;

7 “(iii) that has no officers, directors, em-
 8 ployees, or owners that are officers, directors,
 9 employees, or owners of that covered packer;
 10 and

11 “(iv) that has no fiduciary responsibility to
 12 that covered packer.

13 “(4) SPOT MARKET SALE.—

14 “(A) IN GENERAL.—The term ‘spot mar-
 15 ket sale’ means a purchase and sale of livestock
 16 by a covered packer from a nonaffiliated pro-
 17 ducer—

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

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

1 “(iii) under which a reasonable com-
 2 petitive bidding opportunity exists on the
 3 date on which the agreement is entered
 4 into, as determined under subparagraph
 5 (B).

6 “(B) REASONABLE COMPETITIVE BIDDING
 7 OPPORTUNITY.—For the purposes of subpara-
 8 graph (A)(iii), a reasonable competitive bidding
 9 opportunity is considered to exist if—

10 “(i) no written or oral agreement pre-
 11 cludes the nonaffiliated producer from so-
 12 liciting or receiving bids from other cov-
 13 ered packers; and

14 “(ii) no circumstance, custom, or
 15 practice exists that—

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

20 “(II) precludes the nonaffiliated
 21 producer from soliciting or receiving
 22 bids from other covered packers.

23 “(b) GENERAL RULE.—Of the quantity of livestock
 24 that is slaughtered by a covered packer during each re-
 25 porting week in each plant, the covered packer shall

1 slaughter not less than 50 percent of the quantity through
2 spot market sales from nonaffiliated producers.

3 “(c) NONPREEMPTION.—Notwithstanding section
4 259, this section does not preempt any requirement of a
5 State or political subdivision of a State that requires a
6 covered packer to purchase a greater percentage of live-
7 stock on the spot market than the percentage required
8 under this section.

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

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