

106TH CONGRESS
1ST SESSION

H. R. 693

To amend the Agricultural Marketing Act of 1946 to institute a program of mandatory livestock market reporting for meat packers regarding prices, volume, and the terms of sale for the procurement of domestic and imported livestock and livestock products, to improve the collection of information regarding swine inventories and the slaughtering and measurement of swine, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1999

Mr. THUNE (for himself, Mr. MINGE, Mr. BOSWELL, Mrs. EMERSON, Mr. POMEROY, Mr. EVANS, Mr. WELLER, and Mrs. CLAYTON) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Agricultural Marketing Act of 1946 to institute a program of mandatory livestock market reporting for meat packers regarding prices, volume, and the terms of sale for the procurement of domestic and imported livestock and livestock products, to improve the collection of information regarding swine inventories and the slaughtering and measurement of swine, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Livestock Industry Fairness and Enhancement Act”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Mandatory livestock market reporting.

Sec. 3. Collection, collation, and reporting of data and statistics related to production of swine, pork, and pork products.

Sec. 4. Report on jurisdiction, duties, and authorities of Secretary of Agriculture regarding packers, livestock, and livestock products.

Sec. 5. Retail price report of representative meat products.

Sec. 6. Regulations.

6 **SEC. 2. MANDATORY LIVESTOCK MARKET REPORTING.**

7 (a) REPORTING REQUIRED.—The Agricultural Mar-
8 keting Act of 1946 is amended by inserting after section
9 203 (7 U.S.C. 1622) the following new section:

10 **“SEC. 203A. MANDATORY LIVESTOCK MARKET REPORTING.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) LIVESTOCK.—The term ‘livestock’ means
13 cattle, sheep, and swine, whether live or dead.

14 “(2) LIVESTOCK PRODUCT.—The term ‘live-
15 stock product’ means any product or byproduct pro-
16 duced or processed in whole or in part from live-
17 stock, including boxed beef, boxed lamb, and any
18 value-added product derived from pork.

19 “(3) PACKER.—Subject to subsection (b)(1),
20 the term ‘packer’ means any person engaged in the
21 business of—

1 “(A) buying livestock in commerce for pur-
2 poses of slaughter;

3 “(B) manufacturing or preparing livestock
4 products for sale or shipment in commerce; or

5 “(C) marketing livestock products in an
6 unmanufactured form acting as a wholesale
7 broker, dealer, or distributor in commerce.

8 “(4) PRICES, VOLUME, AND TERMS OF SALE.—

9 The term ‘prices, volume, and terms of sale’ includes
10 base price, premium and discount price factors, for-
11 mula-based pricing systems, quality characteristics
12 (including percent lean and carcass weight), and any
13 current or future contract offered by a packer.

14 “(5) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of Agriculture.

16 “(b) MANDATORY REPORTING REQUIRED.—

17 “(1) PACKERS SUBJECT TO REQUIREMENT.—

18 This subsection applies only to a packer that the
19 Secretary estimates is engaged in the business of
20 buying, manufacturing, preparing, or marketing
21 more than five percent (by daily volume) of—

22 “(A) all cattle, all sheep, or all swine that
23 are bought, prepared, or marketed in the
24 United States;

1 “(B) all livestock products that are bought,
2 manufactured, prepared, or marketed in the
3 United States; or

4 “(C) any combination of subparagraphs
5 (A) and (B).

6 “(2) REQUIRED INFORMATION.—The Secretary
7 shall require each packer described in paragraph (1)
8 to report to the Secretary, in such manner as the
9 Secretary shall require, such information relating to
10 prices, volume, and terms of sale for the procure-
11 ment of domestic and imported livestock and live-
12 stock products as the Secretary determines is appro-
13 priate.

14 “(3) ADMINISTRATION.—In carrying out para-
15 graph (2), the Secretary shall require packers de-
16 scribed in paragraph (1)—

17 “(A) to separately report domestic and im-
18 ported livestock and livestock products; and

19 “(B) to report the information required
20 under paragraph (2) by the next business day,
21 as defined by the Secretary.

22 “(4) NONCOMPLIANCE.—It shall be unlawful
23 for any packer described in paragraph (1) to know-
24 ingly fail or refuse to provide to the Secretary infor-
25 mation required under paragraph (2).

1 “(5) VERIFICATION.—The Secretary may take
2 such actions as are necessary to verify the accuracy
3 of the information required under paragraph (2), re-
4 gardless of the source of the information.

5 “(6) CEASE AND DESIST AND CIVIL PEN-
6 ALTY.—

7 “(A) IN GENERAL.—If the Secretary has
8 reason to believe that a packer described in
9 paragraph (1) is violating this subsection (or a
10 regulation issued under this subsection), the
11 Secretary may issue an order to cease and de-
12 sist from continuing the violation and assess a
13 civil penalty of not more than \$10,000 for each
14 violation. The order shall be issued only after
15 notice and an opportunity for hearing is pro-
16 vided to the packer.

17 “(B) FACTORS.—In determining the
18 amount of a civil penalty to be assessed under
19 subparagraph (A), the Secretary shall consider
20 the gravity of the offense, the size of the busi-
21 ness involved, and the effect of the penalty on
22 the ability of the packer to continue in business.

23 “(7) REFERRAL TO ATTORNEY GENERAL.—If,
24 after expiration of the period for appeal or after the
25 affirmance of a civil penalty assessed under para-

1 graph (6), the packer against whom the civil penalty
2 is assessed fails to pay the civil penalty, the Sec-
3 retary may refer the matter to the Attorney General,
4 who may recover the amount of the civil penalty in
5 a civil action in United States district court.

6 “(c) VOLUNTARY REPORTING.—The Secretary shall
7 encourage voluntary reporting by packers that are not
8 subjected to a mandatory reporting requirement under
9 subsection (b).

10 “(d) AVAILABILITY OF INFORMATION.—

11 “(1) TIMELY AVAILABILITY.—The Secretary
12 shall make information received under this section
13 available to the public in a timely manner to permit
14 the use of the information while it is still relevant.

15 “(2) LIMITATIONS.—The disclosure of informa-
16 tion under paragraph (1) may be made only in a
17 form that ensures the following:

18 “(A) The identity of the parties involved in
19 any transaction described in a report is not dis-
20 closed.

21 “(B) The identity of the packer submitting
22 a report is not disclosed.

23 “(C) The confidentiality of proprietary
24 business information is otherwise protected.

1 “(e) EFFECT ON OTHER LAWS.—Nothing in this sec-
 2 tion restricts or modifies the authority of the Secretary
 3 to collect voluntary reports in accordance with other provi-
 4 sions of law.

5 “(f) TERMINATION OF MANDATORY REQUIRE-
 6 MENT.—The reporting requirement established by sub-
 7 section (b) shall expire at the end of the three-year period
 8 beginning on the date of the enactment of this section.”.

9 (b) REPEAL OF PILOT PRICE REPORTING INVES-
 10 TIGATION.—Section 416 of the Packers and Stockyards
 11 Act, 1921 (7 U.S.C. 229a), as added by section 1127(a)
 12 of the Agriculture, Rural Development, Food and Drug
 13 Administration, and Related Agencies Appropriations Act,
 14 1999 (as contained in section 101(a) of division A of Pub-
 15 lic Law 105–277), is repealed.

16 **SEC. 3. COLLECTION, COLLATION, AND REPORTING OF**
 17 **DATA AND STATISTICS RELATED TO PRODUC-**
 18 **TION OF SWINE, PORK, AND PORK PRODUCTS.**

19 The Agricultural Marketing Act of 1946 is amended
 20 by inserting after section 203A (as added by section 2 of
 21 this Act) the following new section:

22 **“SEC. 203B. SPECIAL REPORTING AND MEASUREMENT RE-**
 23 **QUIREMENTS REGARDING SWINE.**

24 “(a) DEFINITIONS.—In this section:

1 “(1) PACKER.—The term ‘packer’ has the
2 meaning given the term in section 203A(a).

3 “(2) SWINE.—The term ‘swine’ means the por-
4 cine animal raised for feeder pigs, seedstock, or
5 slaughter.

6 “(3) BARROW.—The term ‘barrow’ means a
7 neutered male swine.

8 “(4) GILT.—The term ‘gilt’ means a young fe-
9 male swine, one that has not produced a litter.

10 “(5) SECRETARY.—The term ‘Secretary’ means
11 the Secretary of Agriculture.

12 “(b) SWINE INVENTORY REPORT IMPROVEMENT.—

13 “(1) NEW REPORTING REQUIREMENT.—As soon
14 as practicable after the date of the enactment of this
15 section, the Secretary of Agriculture shall implement
16 a reporting procedure that results in a monthly re-
17 port of the inventory of swine located on farms and
18 other confinement or production areas, in the 17
19 leading pork producing States in the United States.
20 The reporting procedure shall include in a separate
21 category the number of bred female swine that are
22 assumed, or have been confirmed, as pregnant dur-
23 ing the reporting period.

24 “(2) EFFECT ON EXISTING REPORT.—The Sec-
25 retary shall continue to maintain and publish the

1 current quarterly report known as the “Hogs and
2 Pigs Inventory Report” for a period of not less than
3 eight quarters after the inception of the monthly re-
4 port initiated under paragraph (1).

5 “(3) AVAILABILITY OF REPORT.—The monthly
6 report referred to in paragraph (1) shall be made
7 available to swine producers, packers, market ana-
8 lysts and researchers, and such other persons and
9 entities as the Secretary determines to be in the
10 public interest. The quarterly report continued as
11 provided in paragraph (2) shall be designed to be
12 provided to those same persons or entities intended
13 to receive the monthly report so as to provide them
14 with a data overlap period until the monthly report
15 is fully functional.

16 “(c) CARCASS MEASUREMENT AND VALUE PRIC-
17 ING.—

18 “(1) LEAN CONTENT MEASUREMENTS.—As
19 soon as practicable after the date of the enactment
20 of this section, the Secretary shall conduct a study
21 and survey and issue regulations requiring packers
22 to implement a program to measure the lean content
23 (containing little or no fat) of swine carcasses using
24 trained and impartial personnel. In issuing the regu-
25 lation, the Secretary shall provide for the adminis-

1 tration of the program and inspection of such packer
2 operations by personnel of the Grain Inspection,
3 Packers and Stockyards Administration.

4 “(2) IMPLEMENTATION REPORT.—Not later
5 than six months after the date of the enactment of
6 this section, the Secretary shall submit to Congress
7 a report setting forth the actions taken to implement
8 this subsection. The report shall set forth the num-
9 bers and names of packers who have initiated such
10 a measurement program on a voluntary basis, the
11 percentage of the packing industry that has initiated
12 such voluntary programs, the date such voluntary
13 programs were initiated, the estimated cost to pack-
14 ers to implement a voluntary program, the estimated
15 cost to be incurred by packers to implement the
16 mandatory program required by paragraph (1), and
17 other benefits that may accrue from the program.

18 “(3) INSPECTION OF EQUIPMENT.—This para-
19 graph applies to a packer that slaughters more than
20 five percent (by daily volume) of all swine that are
21 bought, prepared, or marketed in the United States.
22 All equipment used by such a packer in the meas-
23 urement and determination of the value of swine
24 shall be subject to inspection by personnel of the
25 Grain Inspection, Packers and Stockyards Adminis-

1 tration designated by the Secretary. All formulas
2 and pricing procedures used to determine the value
3 of swine by such a packer may be obtained by the
4 Secretary who shall ensure its publication as deter-
5 mined by the Secretary.

6 “(d) BARROW AND GILT SLAUGHTER.—The Sec-
7 retary shall promptly obtain, either through a valid report-
8 ing procedure for a packer described in subsection (c)(3)
9 or other valid statistical sampling procedure at packing
10 plants as determined by the Secretary, data on the division
11 of the total market slaughter of swine that reflects dif-
12 ferences in numbers between barrows and gilts. Such in-
13 formation shall be made available to swine producers in
14 a report published by the Secretary.”.

15 **SEC. 4. REPORT ON JURISDICTION, DUTIES, AND AUTHORI-**
16 **TIES OF SECRETARY OF AGRICULTURE RE-**
17 **GARDING PACKERS, LIVESTOCK, AND LIVE-**
18 **STOCK PRODUCTS.**

19 (a) REPORT REQUIRED.—Not later than 90 days
20 after the date of the enactment of this Act, the Secretary
21 of Agriculture shall submit to Congress a report describing
22 the jurisdiction, power, duties, and authorities of the Sec-
23 retary over packers, livestock, livestock products, and
24 interstate commerce in livestock and livestock products
25 under the Agricultural Marketing Act of 1946 (7 U.S.C.

1 1621 et seq.), the Packers and Stockyards Act, 1921 (7
2 U.S.C. 181 et seq.), and all other related laws, such as
3 sections 6, 8, 9, and 10 of the Federal Trade Commission
4 Act (as referred to in section 402 of the Packers and
5 Stockyards Act, 1921 (7 U.S.C. 222)).

6 (b) CONTENT.—With respect to such jurisdiction,
7 power, duties, and authorities, the report shall address the
8 following:

9 (1) The burdens on, and obstructions to, inter-
10 state commerce in livestock and livestock products
11 by packers and other persons who enter into ar-
12 rangements with packers that are contrary to, or do
13 not protect, the public interest.

14 (2) Non-competitive pricing arrangements be-
15 tween or among packers, or other persons involved
16 in the processing, distribution, or sale of livestock or
17 livestock products to consumers, including those pro-
18 vided for in contracts for the purchase of livestock.

19 (3) Measures to provide transparency to, and
20 effective monitoring of, contracts entered into be-
21 tween packers and livestock producers.

22 (4) Investigations that relate to, and affect the
23 disclosure of, transactions involved in the business of
24 packers involved in the ownership of such busi-
25 nesses, the pricing of livestock to producers, and the

1 pricing of livestock products in the entire mer-
2 chandising chain.

3 (5) Cooperation and enhancement by the Sec-
4 retary with the enforcement of actions initiated by
5 other Federal agencies to protect trade and com-
6 merce in the livestock and livestock product indus-
7 tries against unlawful restraints and monopolies.

8 (c) DEFINITIONS.—In this section, the terms “pack-
9 er”, “livestock”, and “livestock products” have the mean-
10 ing given such terms in section 203A of the Agricultural
11 Marketing Act of 1946, as added by section 2 of this Act.

12 **SEC. 5. REPORT ON THE ABILITY OF THE SECRETARY OF**
13 **AGRICULTURE TO PROVIDE RELIABLE PERI-**
14 **ODIC RETAIL PRICE REPORTS.**

15 Not later than 90 days after the date of the enact-
16 ment of this Act, the Secretary of Agriculture shall submit
17 to Congress a report describing the ability of the Depart-
18 ment of Agriculture to provide reliable periodic reports of
19 the retail prices of representative meat products. The re-
20 port shall include at least the following:

21 (1) Existing private and public retail price re-
22 porting services.

23 (2) Existing authorities to use, interpret, and
24 publish data from such services, and any additional

1 authorities necessary to improve the use, interpreta-
2 tion, and publication of such data.

3 (3) Opportunities to cooperate with other Fed-
4 eral and State agencies.

5 **SEC. 6. REGULATIONS.**

6 (a) ISSUANCE OF REGULATIONS.—Not later than
7 180 days after the date of the enactment of this Act, the
8 Secretary of Agriculture shall issue such regulations as the
9 Secretary considers necessary to implement the amend-
10 ments made by this Act. The Secretary shall issue the reg-
11 ulations without regard to the following:

12 (1) The notice and comment provisions of sec-
13 tion 553 of title 5, United States Code.

14 (2) The Statement of Policy of the Secretary of
15 Agriculture effective July 24, 1971 (36 Fed. Reg.
16 13804), relating to notices of proposed rulemaking
17 and public participation in rulemaking.

18 (3) Chapter 35 of title 44, United States Code
19 (commonly known as the Paperwork Reduction Act).

20 (b) CONGRESSIONAL REVIEW OF AGENCY RULE-
21 MAKING.—In issuing regulations under subsection (a), the
22 Secretary of Agriculture shall use the authority provided
23 under section 808(2) of title 5, United States Code.

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