

106TH CONGRESS
1ST SESSION

S. 675

To increase market transparency in agricultural markets domestically and abroad.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 1999

Mr. DASCHLE (for himself, Mr. KERREY, Mr. GRASSLEY, Mr. THOMAS, Mr. JOHNSON, Mr. CONRAD, Mr. BAUCUS, Mr. HARKIN, Mr. DORGAN, Mr. WELLSTONE, Mr. BINGAMAN, Mr. DURBIN, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition and Forestry

A BILL

To increase market transparency in agricultural markets domestically and abroad.

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 “Agriculture Market
5 Transparency Act of 1999”.

1 **SEC. 2. PILOT PROGRAM ON LIVESTOCK MARKET REPORT-**
 2 **ING.**

3 (a) IN GENERAL.—The Agricultural Marketing Act
 4 of 1946 is amended by inserting after section 203 (7
 5 U.S.C. 1622) the following:

6 **“SEC. 203A. PILOT PROGRAM ON LIVESTOCK MARKET RE-**
 7 **PORTING.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) LIVESTOCK.—The term ‘livestock’ means
 10 cattle, sheep, and hogs.

11 “(2) LIVESTOCK PRODUCT.—The term ‘live-
 12 stock product’ means a product or byproduct (other
 13 than meat or a meat food product) of the slaugh-
 14 tering or meat-packing industry that is derived, in
 15 whole or in part, from livestock.

16 “(3) PACKER.—The term ‘packer’ has the
 17 meaning given the term in section 201 of the Pack-
 18 ers and Stockyards Act, 1921 (7 U.S.C. 191).

19 “(4) SECRETARY.—The term ‘Secretary’ means
 20 the Secretary of Agriculture.

21 “(b) MANDATORY REPORTING PILOT PROGRAM.—

22 “(1) IN GENERAL.—Subject to paragraph (7),
 23 the Secretary shall conduct a 3-year pilot program
 24 under which the Secretary shall require each packer
 25 to report to the Secretary (or a person designated by
 26 the Secretary), in such manner as the Secretary

1 shall require, such information relating to prices,
2 volume, and the terms of sale for the procurement
3 of domestic and imported livestock and livestock
4 products as the Secretary determines is appropriate.

5 “(2) ADMINISTRATION.—In carrying out para-
6 graph (1), the Secretary shall require packers to—

7 “(A) separately report domestic and im-
8 ported livestock and livestock products; and

9 “(B) report the information required to be
10 reported under paragraph (1) the next business
11 day or as soon as practicable after the procure-
12 ment of the livestock or livestock product.

13 “(3) NONCOMPLIANCE.—It shall be unlawful
14 for any packer to knowingly fail or refuse to provide
15 to the Secretary information required to be reported
16 under paragraph (1).

17 “(4) VERIFICATION.—The Secretary may take
18 such actions as are necessary to verify the accuracy
19 of the information required to be reported under
20 paragraph (1), regardless of the source of the infor-
21 mation.

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

24 “(A) IN GENERAL.—If the Secretary has
25 reason to believe that a packer is violating

paragraph (1) (including regulations promulgated under paragraph (1)), the Secretary, after notice and opportunity for hearing, may issue an order to cease and desist from continuing the violation and assess a civil penalty of not more than \$10,000 for each violation.

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

“(6) REFERRAL TO ATTORNEY GENERAL.—If, after expiration of the period for appeal or after the affirmance of a civil penalty assessed under paragraph (5), the packer against whom the civil penalty is assessed fails to pay the civil penalty, the Secretary may refer the matter to the Attorney General, who may recover the amount of the civil penalty in a civil action in United States district court.

“(7) APPLICATION.—This subsection shall apply only to the class of the largest packers (by volume) that are engaged in the business of buying, manufacturing, preparing, or marketing at least 80 percent of the volume of a particular type of live-

1 stock and livestock product that is bought, manufac-
2 tured, prepared, or marketed in the United States,
3 as determined by the Secretary.

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

8 “(d) AVAILABILITY OF INFORMATION.—The Sec-
9 retary shall make information received under this section
10 available to the public only in a form that ensures that—

11 “(1) the identity of the packer submitting a re-
12 port is not disclosed; and

13 “(2) the confidentiality of proprietary business
14 information is otherwise protected.

15 “(e) EFFECT ON OTHER LAWS.—Nothing in this sec-
16 tion restricts or modifies the authority of the Secretary
17 to collect voluntary reports in accordance with other provi-
18 sions of law.”.

19 (b) REGULATIONS.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of enactment of this Act, the Sec-
22 retary of Agriculture shall promulgate such regula-
23 tions as are necessary to implement the amendment
24 made by subsection (a). The promulgation of the
25 regulations shall be made without regard to—

1 (A) the notice and comment provisions of
 2 section 553 of title 5, United States Code;

3 (B) the Statement of Policy of the Sec-
 4 retary of Agriculture effective July 24, 1971
 5 (36 Fed. Reg. 13804), relating to notices of
 6 proposed rulemaking and public participation in
 7 rulemaking; and

8 (C) chapter 35 of title 44, United States
 9 Code (commonly known as the “Paperwork Re-
 10 duction Act”).

11 (2) CONGRESSIONAL REVIEW OF AGENCY RULE-
 12 MAKING.—In carrying out this subsection, the Sec-
 13 retary shall use the authority provided under section
 14 808(2) of title 5, United States Code.

15 (c) CONFORMING AMENDMENT.—Section 416 of the
 16 Packers and Stockyards Act, 1921 (7 U.S.C. 229a) (as
 17 added by section 1127(a) of division A of Public Law 105–
 18 277) is repealed.

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