

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.

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## 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

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## 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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