



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 9, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 341, an Acct regulating the balance of competitive forces in swine and beef production by enhancing the welfare of the farming community and by preventing processors from gaining control of beef or swine production, providing for the transfer of provisions, making a penalty applicable, and providing for an effective date.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 341

AN ACT

REGULATING THE BALANCE OF COMPETITIVE FORCES IN SWINE AND BEEF PRODUCTION BY ENHANCING THE WELFARE OF THE FARMING COMMUNITY AND BY PREVENTING PROCESSORS FROM GAINING CONTROL OF BEEF OR SWINE PRODUCTION, PROVIDING FOR THE TRANSFER OF PROVISIONS, MAKING A PENALTY APPLICABLE, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REGULATION OF PROCESSORS

Section 1. Section 9H.1, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 26A. "Person" means an individual, business association, government or governmental subdivision or agency, or any other legal entity.

Sec. 2. Section 9H.1, subsection 29, unnumbered paragraph 1, Code 2003, is amended to read as follows:

"Retailer" means a person who is engaged in the business of selling pork products ~~in-this-state~~, if all of the following apply:

Sec. 3. Section 9H.1, subsection 32, Code 2003, is amended to read as follows:

32. "Swine producer" means a person who owns, controls, or operates a swine operation ~~in-this-state~~ or who contracts for the care and feeding of swine ~~in-this-state~~.

Sec. 4. Section 9H.2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The purpose of this section is to preserve free and private enterprise, prevent monopoly, and also to protect consumers by

regulating the balance of competitive forces in beef and swine production, by enhancing the welfare of the farming community, and also by preventing processors from gaining control of beef or swine production.

Sec. 5. Section 9H.2, subsection 1, paragraph b, subparagraph (2), Code 2003, is amended to read as follows:

(2) Directly or indirectly contract for the care and feeding of swine in this state. ~~However, this subparagraph does not apply to a cooperative association organized under chapter 497, 498, 499, or 501, if the cooperative association contracts for the care and feeding of swine with a member of the cooperative association who is actively engaged in farming. This subparagraph does not apply to an association organized as a cooperative in which another cooperative association organized under chapter 497, 498, 499, or 501 is a member, if the association contracts with a member which is a cooperative association organized under chapter 497, 498, 499, or 501, which contracts for the care and feeding of swine with a member of the cooperative who is actively engaged in farming.~~

Sec. 6. Section 9H.2, subsection 4, Code 2003, is amended to read as follows:

4. A processor which was in compliance with this section prior to April 5, 2000, and which was in violation of this section as a result of 2000 Iowa Acts, chapter 1048, shall have until June 30, ~~2004~~ 2006, to comply with 2000 Iowa Acts, chapter 1048. A processor shall not take action on or after April 5, 2000, which would be in violation of this section.

Sec. 7. Section 9H.2A, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 0A. A cooperative association which is a party to a contract for the care and feeding of swine in compliance with section 9H.2 prior to the effective date of this Act, and which is in violation of section 9H.2, as amended by this Act, shall have until June 30, 2007, to comply with section 9H.2, as amended by this Act.

Notwithstanding any provision of this section, a cooperative association shall not take an action on or after the effective date of this Act that would be in violation of section 9H.2, as amended by this Act.

Sec. 8. Section 9H.2A, subsections 1 through 3, Code 2003, are amended to read as follows:

1. A processor that was in compliance with section 9H.2, Code 2001, prior to January 1, 2002, and which is in violation of section 9H.2, as amended by ~~this Act~~ 2002 Acts, chapter 1095, shall have until June 30, ~~2004~~ 2006, to comply with section 9H.2, as amended by ~~this Act~~ 2002 Acts, chapter 1095.

2. Notwithstanding any provision of this section, a processor shall not take an action on or after January 1, 2002, that would be in violation of section 9H.2, as amended by ~~this Act~~ 2002 Acts, chapter 1095.

3. The two-year period that a person who holds an executive position in a processor or owes a processor a fiduciary duty and thus is deemed to be a processor as provided in section 9H.1, subsection 27, paragraph "b", shall not apply if the person held the position or owed the duty on January 1, 2002, and relinquishes the position or duty on or before June 30, ~~2004~~ 2006.

Sec. 9. Section 9H.2A, subsection 4, Code 2003, is amended by striking the subsection.

Sec. 10. Section 9H.1, subsection 28, paragraph c, Code 2003, is amended to read as follows:

c. Not less than ~~twenty-five~~ ten percent of the swine slaughtered by the processor each day are purchased through cash or spot market purchases ~~from-sellers-of-swine-who-do-not-hold-a-direct-or-indirect-interest-in-the-processor~~.

d. The processor makes cash or spot market purchases of swine under the same terms and conditions from both sellers of swine who hold a direct or indirect interest in the processor and sellers of swine who do not hold a direct or indirect interest in the processor. In making such cash or spot market purchases of swine, the processor shall not provide sellers of swine who hold a direct or indirect interest in the processor with a preference over sellers of swine who do not hold a direct or indirect interest in the processor.

DIVISION II

TRANSFER AND ELIMINATION OF CODE PROVISIONS FOR PURPOSES OF ENHANCING READABILITY

Sec. 11. Section 9H.1, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 22A. "Indirect" means to act or attempt to accomplish an act through an interest in a business association, through one or more affiliates or intermediaries, or by any method other than a direct approach, including by any circuitous or oblique method.

Sec. 12. NEW SECTION. 9H.3A PENALTIES -- INJUNCTIVE RELIEF.

The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter.

Sec. 13. Section 9H.14, Code 2003, is amended to read as follows:

9H.14 DUTIES OF SECRETARY OF STATE.

The secretary of state shall notify the attorney general when the secretary of state has reason to believe a violation of this chapter has occurred. It is the intent of this section that information shall be made available to members of the general assembly and appropriate committees of the general assembly in order to determine the extent of farming production operations being carried out in this state by ~~corporations-and-other-business-entities~~ contract feeders and processors and the effect of such farming practices upon the economy of this state. The reports of ~~corporations, limited liability companies, limited partnerships, trusts, contractors, and~~ contract feeders and processors required in this chapter shall be confidential reports except as to the attorney general for review and appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of studying the effects of this chapter and the practices this chapter seeks to study and regulate.

Sec. 14. Section 10B.4A, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The secretary of state shall not prepare or distribute forms for reports or file reports otherwise required pursuant to section ~~9H.5A, 9I.8, or 501.103.~~ A person required to file a report pursuant to this chapter is not required to file a report under those sections.

Sec. 15. Section 331.756, subsection 33, Code 2003, is amended to read as follows:

33. Institute legal procedures on behalf of the state to prevent violations of ~~the-corporate-or-partnership-farming laws-as-provided-in-section-9H-3~~ chapter 9H or 202B.

Sec. 16. DIRECTIONS TO CODE EDITOR.

1. The purpose of this section is only to enhance the readability of provisions of the Code, and shall not be construed as a measure intended to accomplish any substantive change in the law or its statutory construction.

2. The Code editor is directed to transfer provisions in chapter 9H to a new chapter 202B, consistent with the authority of the Code editor pursuant to chapter 2B, as follows:

a. For consolidation into the first subchapter of new chapter 202B, the following shall apply:

(1) The following provisions shall be transferred:

(a) Section 9H.2, unnumbered paragraph 1, as amended by this Act, which shall be codified as a new section. The Code editor shall substitute the term "chapter" for "section" in the law text.

(b) Section 9H.1, subsections 6, 8, 9, 10, 11, 12, 13, 22, 27, and 31, which shall be codified as a new section. Section 9H.1, subsection 26A, as enacted in this Act, shall be codified in the same section. Section 9H.1, subsections 28, 29 and 32, as amended by this Act, shall be codified in that same section.

(2) The subsections of section 9H.1, as consolidated into a new section, shall be preceded by an unnumbered paragraph 1, stating the following: "As used in this chapter, unless the context otherwise requires:".

b. For consolidation into the second subchapter of new chapter 202B, the following provisions shall be transferred:

(1) Section 9H.2, subsections 1 through 3, as amended by this Act.

(2) Section 9H.2A, as amended by this Act. Section 9H.2, subsection 4, shall be transferred and codified as a new subsection in section 9H.2A as transferred.

c. For consolidation into the third subchapter of new chapter 202B, the following sections shall be transferred: 9H.5B, 9H.9, 9H.10, and 9H.15; and section 9H.14 as amended by this Act.

d. For consolidation into the fourth subchapter of new chapter 202B, the following sections shall be transferred: 9H.3 and 9H.11.

3. The Code editor is directed to transfer section 9H.6 to chapter 10B.

4. In consolidating and transferring provisions, the Code editor shall not provide references in the law text of a section of chapter 9H to new chapter 202B.

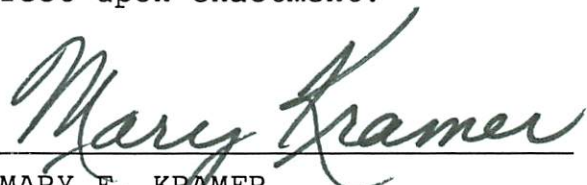
Sec. 17. Section 9H.5A, Code 2003, is repealed.

DIVISION III

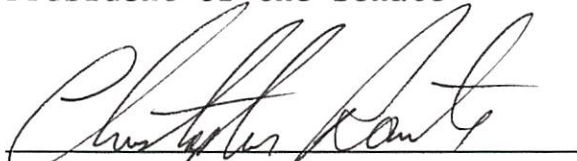
MISCELLANEOUS PROVISIONS

Sec. 18. SEVERABILITY. If any provision of section 9H.2, or the application of that section, to any person or circumstance is held invalid, the invalidity does not affect other provisions of section 9H.2 or any other provision in chapter 9H or 202B as those provisions existed prior to the effective date of this Act, which shall be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable. This section shall not affect the transfer of provisions of chapter 9H as provided in this Act.

Sec. 19. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.


MARY E. KRAMER

President of the Senate



CHRISTOPHER C. RANTS

Speaker of the House

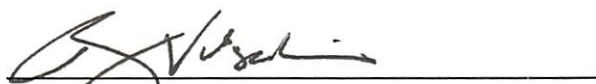
I hereby certify that this bill originated in the Senate and is known as Senate File 341, Eightieth General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved May 9, 2003


THOMAS J. VILSACK
Governor