

FEB 16 1999
Agriculture

HOUSE FILE 289
BY FREVERT

(COMPANION TO LSB 1669SS
BY KIBBIE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to practices involving the marketing of livestock
2 by packers, by prohibiting price discrimination, requiring
3 reporting, and providing criminal penalties and civil
4 remedies.

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

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HF 289

1 Section 1. NEW SECTION. 172C.1 DEFINITIONS.

2 1. "Livestock" means live cattle, swine, or sheep.

3 2. "Packer" means a person who is engaged in the business
4 of slaughtering livestock or receiving, purchasing, or
5 soliciting livestock for slaughter, if the meat products of
6 the slaughtered livestock which are directly or indirectly to
7 be offered for resale or for public consumption and the meat
8 products have a total annual value of ten million dollars or
9 more. As used in this chapter, "packer" includes an agent of
10 the packer engaged in buying or soliciting livestock for
11 slaughter on behalf of a packer. "Packer" does not include a
12 frozen food locker plant regulated under chapter 172.

13 Sec. 2. NEW SECTION. 172C.2 PRICE DISCRIMINATION --
14 PROHIBITION.

15 1. Except as provided in subsection 2, a packer purchasing
16 or soliciting livestock for slaughter in this state shall not
17 discriminate in prices paid or offered to be paid to sellers
18 of that livestock.

19 2. The section shall not apply to the sale and purchase of
20 livestock if all of the following requirements are met:

21 a. The price differential is based on one of the
22 following:

23 (1) The quality of the livestock, if the packer purchases
24 or solicits the livestock based upon a payment method
25 specifying prices paid for criteria relating to carcass merit.

26 (2) Actual and quantifiable costs related to transporting
27 and acquiring the livestock by the packer.

28 (3) An agreement for the delivery of livestock at a
29 specified date or time.

30 b. After making a differential payment to a seller, the
31 packer publishes information relating to the differential
32 pricing, including the payment method for carcass merit,
33 transportation and acquisition pricing, and an offer to enter
34 into an agreement for the delivery of livestock at a specified
35 date or time according to the same terms and conditions

1 offered to other sellers.

2 3. A packer shall provide all sellers with the same terms
3 and conditions offered to a seller who receives a differential
4 price based on any of the criteria described in subsection 2,
5 paragraph "a".

6 4. The packer shall, at the beginning of each day in which
7 livestock are purchased, post in a conspicuous place at the
8 point of delivery, all prices for livestock to be paid that
9 day.

10 5. An agreement made by a packer in violation of this
11 section is voidable.

12 6. A packer acting in violation of this section is guilty
13 of a fraudulent practice as provided in chapter 714.

14 7. The attorney general shall enforce this section. The
15 department shall refer any violations of this chapter to the
16 attorney general. The attorney general or any person injured
17 by a violation of this section may bring an action in district
18 court to restrain a packer from violating this section. A
19 seller who receives a discriminatory price or who is offered
20 only a discriminatory price for livestock based upon a
21 violation of this section by a packer, has a civil cause of
22 action against the packer and, if successful, shall be awarded
23 treble damages.

24 Sec. 3. NEW SECTION. 172C.3 REPORTING REQUIREMENTS.

25 1. A packer shall make available for publication and to a
26 board of trade approved by the secretary of state, a daily
27 report setting forth information regarding prices paid for
28 livestock, under each contract in force, in which the packer
29 and an Iowa resident are parties for the purchase of the
30 livestock by the packer, and which sets a date for delivery
31 more than twenty days after the making of the contract.

32 2. The reports shall be completed on forms prepared by the
33 secretary of state for comparison with cash market prices for
34 livestock according to procedures required by the secretary of
35 state. However, a report shall not include information

1 regarding the identity of a seller.

2 3. The failure of a packer to report as required by this
3 section is punishable by a civil penalty not to exceed one
4 thousand dollars for each day that a timely or accurate report
5 is not published. The secretary of state shall refer to the
6 attorney general any packer or packer's agent who the
7 secretary of state believes is in violation of this section.
8 The attorney general may, upon referral from the secretary of
9 state, file an action in district court to enforce this
10 section.

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EXPLANATION

12 This bill creates new Code chapter 172C which regulates
13 meat packers. A "packer" is a person who is engaged in the
14 business of slaughtering livestock or receiving, purchasing,
15 or soliciting livestock for slaughter. The definition
16 includes a packer's agent, but does not include a frozen food
17 locker plant.

18 This bill prohibits price discrimination in the purchase of
19 livestock by a packer. The prohibition does not apply if
20 first, the price differential is based on the quality of the
21 livestock, transportation costs, or the delivery of livestock
22 at a specified date or time, and second, information relating
23 to the price differential is published. The packer must offer
24 to enter into an agreement with other sellers for the delivery
25 of livestock according to the same terms and conditions as
26 provided in the published notice. In addition, the packer
27 must, at the beginning of each day in which livestock are
28 purchased, post in a conspicuous place at the point of
29 delivery, all prices for livestock to be paid that day. The
30 bill provides that an agreement made in violation of the
31 bill's requirements is voidable. The packer violating the
32 provision is guilty of a fraudulent practice. The bill
33 provides that the attorney general is responsible for
34 enforcing the provision. The bill provides that the attorney
35 general or an injured seller may seek injunctive relief. The

1 injured seller may be awarded treble damages in a court
2 action.

3 | The bill also provides that a packer must make available
4 for publication, and to a board of trade, a daily report
5 containing prices paid for livestock under each contract in
6 force in which the packer and an Iowa resident are parties, if
7 delivery under the contract is set more than 20 days after the
8 contract is executed. The failure to make a timely report is
9 punishable by a civil penalty not to exceed \$1,000 for each
10 day that a timely or truthful report is not published. The
11 attorney general is also charged to enforce this part of the
12 bill's requirements.

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