

*substituted for by SF 436*

*4/20/99*

MAR 17 1999

*(P. 1471)*

Place On Calendar

HOUSE FILE

*720*

BY COMMITTEE ON AGRICULTURE

**WITHDRAWN**

(SUCCESSOR TO HF 289)

*4.20-99  
(P. 1480)*

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 720*

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. A packer who purchases livestock or executes a contract  
7 for the purchase of livestock shall notify sellers of prices  
8 paid for the livestock or under contracts. If the livestock  
9 are purchased, the packer shall at the beginning of each day  
10 in which livestock are purchased post, in a conspicuous place  
11 at the point of delivery, all prices for livestock paid the  
12 previous day that livestock were purchased. If the packer  
13 executes a contract for the purchase of the livestock, the  
14 packer shall notify the seller in writing of prices offered to  
15 sellers under similar contracts executed the previous day that  
16 contracts were executed.

17 5. An agreement made by a packer in violation of this  
18 section is voidable.

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

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

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

32 1. A packer shall at the end of each day during which the  
33 packer purchases livestock or executes a contract for the  
34 purchase of livestock, submit a report to the department of  
35 agriculture and land stewardship setting forth information

1 regarding prices paid for livestock purchased or under  
2 contract. The packer shall submit the report to the market  
3 news service of the United State department of agriculture to  
4 the extent that the United States department of agriculture  
5 provides for the reporting.

6 2. The reports shall be completed on forms prepared by the  
7 department of agriculture and land stewardship for comparison  
8 with cash market prices for livestock according to procedures  
9 required by the department. However, a report shall not  
10 include information regarding the identity of a seller.

11 3. The failure of a packer to report as required by this  
12 section is punishable by a civil penalty not to exceed one  
13 thousand dollars for each day that a timely or accurate report  
14 is not published. The department shall refer to the attorney  
15 general any packer or packer's agent who the department  
16 believes is in violation of this section. The attorney  
17 general may, upon referral from the department, file an action  
18 in district court to enforce this section.

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#### EXPLANATION

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

26 This bill prohibits price discrimination in the purchase of  
27 livestock by a packer. The prohibition does not apply if  
28 first, the price differential is based on the quality of the  
29 livestock, transportation costs, or the delivery of livestock  
30 at a specified date or time, and second, information relating  
31 to the price differential is published. The packer must offer  
32 to enter into an agreement with other sellers for the delivery  
33 of livestock according to the same terms and conditions as  
34 provided in the published notice. In addition, the packer  
35 must, at the beginning of each day in which livestock are

1 purchased, post in a conspicuous place at the point of  
2 delivery, all prices for livestock paid the previous day. The  
3 packer must also notify a seller in writing of prices offered  
4 for sellers in contracts. The bill provides that an agreement  
5 made in violation of the bill's requirements is voidable. The  
6 packer violating the provision is guilty of a fraudulent  
7 practice. The bill provides that the attorney general is  
8 responsible for enforcing the provision. The bill provides  
9 that the attorney general or an injured seller may seek  
10 injunctive relief. The injured seller may be awarded treble  
11 damages in a court action.

12 The bill also provides that a packer must make available to  
13 the department of agriculture and land stewardship a daily  
14 report containing prices paid for livestock under contract.  
15 The packer must submit the report to the market news service  
16 of the United States department of agriculture to the extent  
17 that the United States department of agriculture provides for  
18 the reporting. The failure to make a timely report is  
19 punishable by a civil penalty not to exceed \$1,000 for each  
20 day that a timely or truthful report is not published. The  
21 attorney general is also charged to enforce this part of the  
22 bill's requirements.

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**HOUSE FILE 720  
FISCAL NOTE**

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A fiscal note for House File 720 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 720, Section 2, states a packer shall not discriminate in the prices paid for livestock. A price differential is allowed if a packer publishes information relating to the price differential and the price differential is based on one of the following:

1. The quality of the livestock.
2. Cost related to transporting and acquiring the livestock.
3. An agreement for delivery of livestock on a specific date or time.

Section 2 requires packers to provide all sellers the same terms and conditions for the price differential paid. Section 2 is enforced by the Attorney General.

Section 3 requires a packer to submit a report to the Department of Agriculture and Land Stewardship regarding the prices paid for livestock purchased or under contract. The packer is required to submit a report to the Market News Service of the United States Department of Agriculture for price reporting.

**ASSUMPTIONS**

1. Over the last six months, the Attorney General's Office has received an estimated 1,400 calls related to livestock markets, including calls concerning contract terms, prices, and packer livestock quality testing techniques. The Attorney General's Office anticipates increased contacts concerning price discrimination with the passage of this Bill.
2. The Attorney General's Office will require the following new positions: one Investigator 2 position to investigate claims of price discrimination, two Attorney General 2 positions, and one Legal Secretary 2 position for litigation of price discrimination claims. The total additional salary and support for the Attorney General's Office in FY 2000 is \$133,000 and \$139,000 in FY 2001. Travel expenditures are estimated to be \$5,000 annually.
3. Price discovery for reporting will be done by the Department of Agriculture and Land Stewardship through the Cooperative Agreement between the Department and the United States Department of Agriculture. The Department will require the following additional positions: one Clerk Typist 3 position, two Database Programmer 3 positions, one Public Service Executive position, one Administrative Associate 1 position, and one Compliance Officer position (required in FY 2001) to ensure packer compliance with price reporting. Salary and benefit costs for these additional positions are \$201,000 for FY 2000 and \$250,000 for FY 2001.
4. Support costs for the additional FTE positions and price discovery will include: office equipment and supplies estimated at \$11,000 in FY 2000 and \$9,000 in FY 2001; and travel, training, and outreach estimated at

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\$10,000 annually.

5. Price discovery by the Department of Agriculture and Land Stewardship will require computer equipment and computer software including: mainframe server and service contract, Oracle database software and software development, and five computers. The one-time cost for computer equipment and software and computer support will be \$98,000 in FY 2000 and \$26,000 in FY 2001.
6. Office development includes the purchase of cubicals for work station setups for the Department of Agriculture and Land Stewardship. Total cost for office development will be \$5,000 for FY 2000. There will be no cost for office development in FY 2001.

### FISCAL IMPACT

The estimated fiscal impact of House File 720 to the General Fund is approximately \$463,000 in FY 2000 and \$439,000 in FY 2001. The expenditure breakdown is provided below:

	<u>FY 2000</u>	<u>FY 2001</u>
<b>Attorney General's Office</b>		
Salaries/support	\$ 133,000	\$ 139,000
Travel	5,000	5,000
Total	<u>\$ 138,000</u>	<u>\$ 144,000</u>
(FTE's)	(3.0)	(3.0)
<b>Department of Agriculture</b>		
Salaries/benefits	\$ 201,000	\$ 250,000
Support	26,000	19,000
Computer software/equip.	98,000	26,000
Total	<u>\$ 325,000</u>	<u>\$ 295,000</u>
(FTE's)	(5.0)	(6.0)
<b>GRAND TOTAL</b>	<u>\$ 463,000</u>	<u>\$ 439,000</u>
(FTE's)	(8.0)	(9.0)

### SOURCES

Attorney General's Office  
Department of Agriculture

(LSB 1669hv, SKW)

FILED MARCH 31, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR

## HOUSE FILE 720

H-1640

1 Amend House File 720 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 22.7, Code 1999, is amended by  
5 adding the following new subsection:

6 NEW SUBSECTION. 38. Information revealing the  
7 identity of a packer or a person who sells livestock  
8 to a packer as reported to the department of  
9 agriculture and land stewardship pursuant to section  
10 172C.2.

11 Sec. 2. NEW SECTION. 172C.1 DEFINITIONS.

12 1. "Department" means the department of  
13 agriculture and land stewardship.

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

15 3. "Packer" means a person who is engaged in the  
16 business of slaughtering livestock or receiving,  
17 purchasing, or soliciting livestock for slaughter, if  
18 the meat products of the slaughtered livestock which  
19 are directly or indirectly to be offered for resale or  
20 for public consumption and the meat products have a  
21 total annual value of ten million dollars or more. As  
22 used in this chapter, "packer" includes an agent of  
23 the packer engaged in buying or soliciting livestock  
24 for slaughter on behalf of a packer. "Packer" does  
25 not include a frozen food locker plant regulated under  
26 chapter 172.

27 Sec. 3. NEW SECTION. 172C.2 PURCHASE REPORTS --  
28 FILING.

29 1. A packer shall file purchase reports with the  
30 department which include information relating to the  
31 purchase of livestock as required by the department.  
32 The purchase reports shall be completed in a manner  
33 prescribed by the department. The department may  
34 require that purchase reports be filed in an  
35 electronic format. A packer shall file purchase  
36 reports at times determined practicable by the  
37 department, but not later than two business days  
38 following the event being reported.

39 2. a. The information required to be reported may  
40 include but is not limited to livestock purchased,  
41 committed for delivery, or slaughtered. The  
42 information may include the volume of daily purchases  
43 and the weight, grade, and price paid for livestock,  
44 including all premiums, discounts, or adjustments. If  
45 livestock is purchased pursuant to contract, the  
46 department may require that information in the  
47 purchase report be categorized by the type of  
48 contract. The purchase reports shall allow the  
49 department to compare prices paid under contract with  
50 cash market prices.

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1 b. This section does not require that information  
2 reported include future plans, events, or  
3 transactions, unless provided for by contract.

4 3. The department may provide for the public  
5 dissemination of information contained in purchase  
6 reports.

7 a. The department may enter into an agreement with  
8 the United States department of agriculture or any  
9 private marketing service in order to disseminate  
10 information contained in purchase reports.

11 b. The department, in consultation with the office  
12 of attorney general, shall designate information in  
13 purchase reports that reveals the identity of a packer  
14 or livestock seller as confidential pursuant to  
15 section 22.7.

16 Sec. 4. NEW SECTION. 172C.3 PURCHASE NOTICE --  
17 POSTING.

18 1. a. A packer shall post a purchase notice which  
19 includes information relating to the purchase of  
20 livestock as required by the department. The  
21 information contained in the purchase notice shall  
22 include a summary of information required to be filed  
23 in purchase reports as provided in section 172C.2.

24 b. This section does not require that information  
25 contained in a purchase notice include future plans,  
26 events, or transactions unless provided for by  
27 contract.

28 2. The information contained in the purchase  
29 notice shall appear in a format that can be understood  
30 by a reasonable person familiar with selling  
31 livestock. The notice shall be posted in a  
32 conspicuous place at the point of delivery in a manner  
33 prescribed by the department.

34 Sec. 5. NEW SECTION. 172C.4 CONFIDENTIALITY  
35 PROVISIONS IN CONTRACTS PROHIBITED.

36 1. A packer shall not include a provision in a  
37 contract executed on or after the effective date of  
38 this section for the purchase of livestock providing  
39 that information contained in the contract is  
40 confidential.

41 2. A provision which is part of a contract for the  
42 purchase of livestock executed on and after the  
43 effective date of this section for the purchase of  
44 livestock is void, if the provision states that  
45 information contained in the contract is confidential.  
46 The provision is void regardless of whether the  
47 confidentiality provision is express or implied; oral  
48 or written; required or conditional; contained in the  
49 contract, another contract, or in a related document,  
50 policy, or agreement. This section does not affect

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1 other provisions of a contract or a related document,  
2 policy, or agreement which can be given effect without  
3 the voided provision. This section does not require  
4 either party to the contract to divulge the  
5 information in the contract to another person.

6 Sec. 6. NEW SECTION. 172C.5 RULES.

7 1. The department, in consultation with the office  
8 of attorney general, shall adopt rules necessary in  
9 order to administer this chapter.

10 2. The department may establish different rules  
11 according to the species of livestock governing all of  
12 the following:

13 a. Purchase reporting requirements pursuant to  
14 section 172C.2.

15 b. Purchase notice posting requirements pursuant  
16 to section 172C.3.

17 Sec. 7. NEW SECTION. 172C.6 ENFORCEMENT.

18 1. a. The attorney general's office is the  
19 primary agency responsible for enforcing this chapter.

20 b. The department shall notify the attorney  
21 general's office if the department has reason to  
22 believe that a violation of section 172C.2 has  
23 occurred.

24 2. In enforcing the provisions of this chapter,  
25 the attorney general may do all of the following:

26 a. Apply to the district court for an injunction  
27 to do any of the following:

28 (1) Restrain a packer from engaging in conduct or  
29 practices in violation of this chapter.

30 (2) Require a packer to comply with a provision of  
31 this chapter.

32 b. Apply to district court for the issuance of a  
33 subpoena to obtain contracts, documents, or other  
34 records for purposes of enforcing this chapter.

35 c. Bring an action in district court to enforce  
36 penalties provided in this chapter, including the  
37 imposition, assessment, and collection of monetary  
38 penalties.

39 3. The attorney general shall have access to all  
40 information reported by packers pursuant to section  
41 172C.2, regardless of whether the information is  
42 confidential. The attorney general may use the  
43 information in order to enforce this chapter or may  
44 submit the information to a federal agency.

45 Sec. 8. NEW SECTION. 172C.7 PENALTIES.

46 1. A packer who fails to file a timely, accurate,  
47 or complete purchase report as required pursuant to  
48 section 172C.2 is subject to a civil penalty of not  
49 more than five thousand dollars. Each failure by a  
50 packer to file a timely, accurate, or complete

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1 purchase report constitutes a separate violation.

2 2. A packer who fails to post a timely, accurate,  
3 or complete purchase notice as required pursuant to  
4 section 172C.3 is subject to a civil penalty of not  
5 more than one thousand dollars. Each failure by a  
6 packer to post a timely, accurate, or complete  
7 purchase notice constitutes a separate violation.

8 3. A packer who includes a confidentiality  
9 provision in a contract with a livestock seller in  
10 violation of section 172C.4 is guilty of a fraudulent  
11 practice as provided in section 714.8.

12 Sec. 9. Section 714.8, Code 1999, is amended by  
13 adding the following new subsection:

14 NEW SUBSECTION. 17. A packer who includes a  
15 confidentiality provision in a contract with a  
16 livestock seller in violation of section 172C.4.

17 Sec. 10. APPLICABILITY. A packer shall provide  
18 purchase reports to the department of agriculture and  
19 land stewardship as required in section 172C.2 and  
20 shall post a purchase notice as provided in section  
21 172C.3, as enacted in this Act, for each species of  
22 livestock as defined in section 172C.1, as enacted in  
23 this Act, in accordance with rules adopted by the  
24 department governing that species.

25 Sec. 11. FUTURE REPEAL OF SECTIONS AND ELIMINATION  
26 OF PROVISIONS -- IMPLEMENTATION OF FEDERAL STATUTES  
27 AND REGULATIONS.

28 1. Subject to subsection 2, all of the following  
29 shall apply:

30 a. If the federal government implements a statute  
31 or regulation that is substantially similar to or more  
32 stringent than purchase reporting requirements  
33 provided in section 172C.2 and penalties provided in  
34 section 172C.7, subsection 1, as enacted by this Act,  
35 all of the following shall apply:

36 (1) Section 172C.2 is repealed.

37 (2) All of the following sections are amended as  
38 follows:

39 (a) Section 22.7, subsection 38, by striking the  
40 subsection.

41 (b) Section 172C.5, subsection 2, paragraph "a",  
42 by striking the paragraph.

43 (c) Section 172C.6, subsection 1, paragraph "b",  
44 by striking the paragraph.

45 (d) Section 172C.6, subsection 3, by striking the  
46 subsection.

47 (e) Section 172C.7, subsection 1, by striking the  
48 subsection.

49 b. If the federal government implements a statute  
50 or regulation that is substantially similar to or more

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1 stringent than purchase notice requirements provided  
2 in section 172C.3 and penalties provided in section  
3 172C.7, subsection 2, as enacted by this Act, all of  
4 the following shall apply:

5 (1) Section 172C.3 is repealed.

6 (2) All of the following sections are amended as  
7 follows:

8 (a) Section 172C.5, subsection 2, paragraph "b",  
9 by striking the paragraph.

10 (b) Section 172C.7, subsection 2, by striking the  
11 subsection.

12 c. If the federal government implements a statute  
13 or regulation that is substantially similar to or more  
14 stringent than purchase reporting requirements and  
15 penalties as described in paragraph "a" and purchase  
16 notice requirements and penalties as described in  
17 paragraph "b", section 172C.5, subsection 2, is  
18 amended by striking the subsection.

19 2. Paragraph "a", "b", or "c", as provided in  
20 subsection 1, shall become applicable only upon a  
21 finding by the secretary of agriculture that the  
22 federal government has implemented a statute or  
23 regulation as provided in that specific paragraph in  
24 accordance with an order issued by the secretary of  
25 agriculture and filed with the secretary of state.  
26 The secretary of agriculture shall issue an order only  
27 after consulting with the attorney general.

28 3. The secretary of agriculture shall forward a  
29 copy of an order issued under this section to all of  
30 the following:

31 a. The governor.

32 b. The secretary of the senate and the chief clerk  
33 of the house of representatives.

34 c. The attorney general.

35 d. The Code editor and the administrative code  
36 editor.

37 4. The Code editor may recommend that any  
38 provision of chapter 172C, as enacted in this Act, be  
39 amended or eliminated in a Code editor's bill as  
40 necessary in order to conform the provisions of the  
41 chapter as provided in this section.

42 Sec. 12. RULEMAKING. The department of  
43 agriculture and land stewardship shall commence  
44 rulemaking as required in section 172C.5, as enacted  
45 in this Act, as soon as practicable upon the enactment  
46 of this Act. However, rules adopted by the department  
47 shall not be made effective prior to July 1, 2000, for  
48 a provision of this Act that takes effect on that  
49 date.

50 Sec. 13. EFFECTIVE DATES.

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1 1. Except as provided in subsection 2, this Act  
2 takes effect on July 1, 2000.

3 2. Section 172C.4, section 172C.6, subsection 2,  
4 section 172C.7, subsection 3, section 714.8,  
5 subsection 17, section 12, and this section as enacted  
6 by this Act, being deemed of immediate importance,  
7 take effect upon enactment."

8 2. Title page, by striking lines 2 through 4 and  
9 inserting the following: "and concerning packers, by  
10 providing for the regulation of certain purchase  
11 information and contracting, and providing penalties  
12 and effective dates."

By KLEMME of Plymouth

H-1640 FILED APRIL 15, 1999

*Adopted*  
*4/20/99*  
*(P.1471)*

\*missing from March 25, 1999  
House Clip Sheet

## HOUSE FILE 720

H-1268

1 Amend House File 720 as follows:  
2 1. Page 1, by inserting before line 1 the  
3 following:  
4 "Section 1. Section 22.7, Code 1999, is amended by  
5 adding the following new subsection:  
6 NEW SUBSECTION. 38. Information revealing the  
7 name of a person who sells livestock to a packer as  
8 reported to the department of agriculture and land  
9 stewardship pursuant to section 172C.2."  
10 2. Page 1, by inserting after line 1 the  
11 following:  
12 "\_\_\_\_. "Department" means the department of  
13 agriculture and land stewardship."  
14 3. By striking page 1, line 13, through page 3,  
15 line 18, and inserting the following:  
16 "Sec. \_\_\_\_ NEW SECTION. 172C.2 PURCHASE REPORTS.  
17 1. A packer shall file purchase reports which  
18 include information relating to the purchase of  
19 livestock as required by the department. The reports  
20 shall be completed in the manner prescribed by the  
21 department. The department may require that purchase  
22 reports be filed in an electronic format. Rules  
23 adopted by the department may provide that the  
24 information contained in a purchase report include  
25 volume of daily purchases, and the weight, grade, and  
26 price paid for livestock, including all premiums,  
27 discounts, or adjustments. If the livestock are  
28 purchased pursuant to contract, the department may  
29 require that information in the purchase report be  
30 categorized by the type of contract, which may include  
31 contracts commonly referred to as formula contracts,  
32 risk managed contracts, ledger contracts, or cash  
33 contracts. The purchase reports shall allow the  
34 department to compare prices paid under contract with  
35 cash market prices. A purchase report required under  
36 this section shall at least include information for  
37 all of the following:  
38 a. Livestock purchased or committed to delivery on  
39 the business day previous to the date that the report  
40 is filed.  
41 b. Livestock slaughtered on the two business days  
42 previous to the date that the report is filed, or  
43 earlier, if required by the department.  
44 2. The department may enter into an agreement with  
45 the United States department of agriculture or any  
46 private marketing service in order to disseminate  
47 information contained in purchase reports filed under  
48 this section.  
49 3. The department, in consultation with the office  
50 of attorney general, shall designate information in

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1 purchase reports that reveals the name of a livestock  
2 seller as confidential pursuant to section 22.7.

3 Sec. \_\_\_\_ . NEW SECTION. 172C.3 PURCHASE NOTICE.

4 A packer shall post a purchase notice which  
5 includes information relating to the purchase of  
6 livestock as required by the department. Rules  
7 adopted by the department may provide that the  
8 information contained in the posted notice include a  
9 summary of information required to be filed in  
10 purchase reports as provided in section 172C.2. The  
11 information in the purchase notice shall appear in a  
12 format that can be immediately understood by a  
13 reasonable person familiar with selling livestock.  
14 The notice shall be posted in a conspicuous place at  
15 the point of delivery in a manner as prescribed by the  
16 department. The packer shall communicate the  
17 information contained in the purchase notice by  
18 electronic means, including telephone upon request by  
19 a livestock seller.

20 Sec. \_\_\_\_ . NEW SECTION. 172C.4 CONFIDENTIALITY  
21 PROHIBITED.

22 1. On and after the effective date of this Act, a  
23 packer shall not include a provision in a contract for  
24 the purchase of livestock providing that information  
25 contained in the contract is confidential.

26 2. A provision which is part of a contract for the  
27 purchase of livestock executed after the effective  
28 date of this Act for the purchase of livestock is  
29 void, if the provision states that information  
30 contained in the contract is confidential. The  
31 provision is void regardless of whether the  
32 confidentiality provision is express or implied; oral  
33 or written; required or conditional; contained in the  
34 contract, another contract, or in a related document,  
35 policy, or agreement. This section does not affect  
36 other provisions of a contract or a related document,  
37 policy, or agreement which can be given effect without  
38 the voided provision. This section does not require  
39 either party to the contract to divulge the  
40 information in the contract to another person.

41 Sec. \_\_\_\_ . NEW SECTION. 172C.5 RULES.

42 The department, in consultation with the office of  
43 attorney general, shall adopt rules necessary in order  
44 to administer this chapter. The department may  
45 establish different rules according to the species of  
46 livestock subject to purchase reporting pursuant to  
47 section 172C.2 or a purchase notice pursuant to  
48 section 172C.3.

49 Sec. \_\_\_\_ . NEW SECTION. 172C.6 ENFORCEMENT.

50 1. The attorney general's office is the primary

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1 agency responsible for enforcing this chapter. The  
2 department shall notify the attorney general's office  
3 if the department has reason to believe that a  
4 violation of section 172C.4 has occurred.

5 2. In enforcing the provisions of this chapter,  
6 the attorney general may do all of the following:

7 a. Apply to the district court for an injunction  
8 to do any of the following:

9 (1) Restrain a packer from engaging in conduct or  
10 practices in violation of this chapter.

11 (2) Require a packer to comply with a provision of  
12 this chapter.

13 b. Apply to district court for the issuance of a  
14 subpoena to obtain contracts, documents, or other  
15 records for purposes of enforcing this chapter.

16 c. Bring an action in district court to enforce  
17 penalties provided in this chapter, including the  
18 assessment and collection of civil penalties.

19 3. The attorney general shall have access to all  
20 information reported by packers pursuant to section  
21 172C.2, regardless of whether the information is  
22 confidential. The attorney general may use the  
23 information in order to enforce this chapter or submit  
24 the information to a federal agency in a legal action  
25 against a packer.

26 Sec. \_\_\_\_ . NEW SECTION. 172C.7 PENALTIES.

27 1. A packer who fails to file a timely, accurate,  
28 or complete purchase report as required pursuant to  
29 section 172C.2 is subject to a civil penalty of not  
30 more than five thousand dollars.

31 2. A packer who fails to post a timely, accurate,  
32 or complete purchase notice or communicate information  
33 contained in the purchase notice to a livestock seller  
34 upon request as required pursuant to section 172C.3 is  
35 subject to a civil penalty of not more than one  
36 thousand dollars.

37 3. A packer who includes a confidentiality  
38 provision in a contract with a livestock seller in  
39 violation of section 172C.4 is guilty of a fraudulent  
40 practice as provided in section 714.8.

41 Sec. \_\_\_\_ . Section 714.8, Code 1999, is amended by  
42 adding the following new subsection:

43 NEW SUBSECTION. 17. A packer who includes a  
44 confidentiality provision in a contract with a  
45 livestock seller in violation of section 172C.3.

46 Sec. \_\_\_\_ . APPLICABILITY. A packer shall provide  
47 purchasing reports to the department of agriculture  
48 and land stewardship as required in section 172C.2 and  
49 shall post a purchase notice and communicate  
50 information contained in the purchase notice to

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1 livestock sellers as provided in section 172C.3, as  
2 enacted in this Act, for each species of livestock as  
3 defined in section 172C.1, as enacted in this Act,  
4 upon adoption of rules governing that species by the  
5 department.

6 Sec. \_\_\_\_ . EFFECTIVE -- DATE.

7 This Act takes effect on March 1, 2000."

8 4. Title page, line 2, by striking the words "by  
9 prohibiting price discrimination,".

10 5. Title page, by striking line 4 and inserting  
11 the following: "penalties, and providing an effective  
12 date."

By KLEMME of Plymouth

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