

3/31/99 Paced on Unfinished Business Calendar

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FILED MAR 15 1999

SENATE FILE 436  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 131)

Passed Senate, Date <sup>(P. 1115)</sup> 4/14/99 Passed House, Date 4/20/99  
Vote: Ayes 39 Nays 10 Vote: Ayes 98 Nays 0  
Approved April 29, 1999

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:

SF 436

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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 at the end of each day during which the  
26 packer purchases livestock or executes a contract for the  
27 purchase of livestock, submit a report to the department of  
28 agriculture and land stewardship setting forth information  
29 regarding prices paid for livestock purchased or under  
30 contract. The packer shall submit the report to the market  
31 news service of the United States department of agriculture to  
32 the extent that the United States department of agriculture  
33 provides for the reporting. The department of agriculture and  
34 land stewardship may require that the information be submitted  
35 to a board of trade approved by the department of agriculture

1 and land stewardship.

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

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

15 EXPLANATION

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

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

1 provision is guilty of a fraudulent practice. The bill  
2 provides that the attorney general is responsible for  
3 enforcing the provision. The bill provides that the attorney  
4 general or an injured seller may seek injunctive relief. The  
5 injured seller may be awarded treble damages in a court  
6 action.

7 The bill requires a packer shall, at the end of each day  
8 during which the packer purchases livestock or executes a  
9 contract for the purchase of livestock, submit a report to the  
10 department of agriculture and land stewardship setting forth  
11 information regarding prices paid for livestock purchased or  
12 under contract. The bill requires the packer to submit the  
13 report to the market news service of the United States  
14 department of agriculture to the extent that the United States  
15 department of agriculture provides for the reporting. The  
16 bill also provides that the department of agriculture and land  
17 stewardship may require that the information be submitted to a  
18 board of trade approved by the department. The failure to  
19 make a timely report is punishable by a civil penalty not to  
20 exceed \$1,000 for each day that a timely or truthful report is  
21 not published. The attorney general is also charged to  
22 enforce this part of the bill's requirements.

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**SENATE FILE 436  
FISCAL NOTE**

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The estimate for Senate File 436, as passed by the Senate, is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 436, as passed by the Senate, requires a packer to file purchase reports, including information related to the purchase of livestock, to the Department of Agriculture and Land Stewardship. The Department of Agriculture and Land Stewardship may disseminate the information in the purchase reports to the public. If the federal government implements a statute or regulation that is similar to or more stringent, Section 3 of the Bill is repealed.

**ASSUMPTIONS**

1. The Department will disseminate information in purchase reports to the public.
2. The effective date for purchase reporting is July 1, 2000.
3. The Department will require the following new positions: one System Manager (October 1, 1999); one Senior Programmer and one Programmer (January 1, 2000). The Department will also require one Compliance Officer in FY 2001 to ensure packer compliance with price reporting. Salary and benefit costs for these additional positions are estimated at \$85,000 for FY 2000 and \$177,000 for FY 2001.
4. Support costs for the additional FTE positions and price reporting will include: office equipment and supplies estimated at \$4,000 in FY 2000 and \$5,000 in FY 2001; and travel, training, and outreach estimated at \$5,000 in FY 2000 and \$10,000 in FY 2001.
5. Price reporting by the Department will require computer equipment and computer software costing approximately \$83,000 in FY 2000 and \$35,000 in FY 2001.
6. Office development includes the purchase of workstation cubicals for the Department of Agriculture and Land Stewardship. The one-time cost for office development will be \$5,000 for FY 2000.

**FISCAL IMPACT**

The estimated General Fund fiscal impact of Senate File 436, as passed by the Senate, is approximately \$183,000 in FY 2000 and \$228,000 in FY 2001.

**SOURCE**

Department of Agriculture

(LSB 1669sv.2, SKW)

**SENATE FILE 436  
FISCAL NOTE**

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The estimate for Senate File 436 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 436, 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 \$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 Senate File 436 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	<u>5,000</u>	<u>5,000</u>
Total	\$ 138,000	\$ 144,000
(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.	<u>98,000</u>	<u>26,000</u>
Total	\$ 325,000	\$ 295,000
(FTE's)	(5.0)	(6.0)
<b>GRAND TOTAL</b>	<b><u>\$ 463,000</u></b>	<b><u>\$ 439,000</u></b>
(FTE's)	<b>(8.0)</b>	<b>(9.0)</b>

**SOURCES**

Attorney General's Office  
Department of Agriculture

(LSB 1669SV, SKW)

FILED MARCH 29, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR



## SENATE FILE 436

S-3337

1 Amend Senate File 436 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 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 2. Page 1, by inserting after line 1 the  
12 following:

13 "\_\_\_\_. "Department" means the department of  
14 agriculture and land stewardship."

15 3. By striking page 1, line 13, through page 3,  
16 line 14, and inserting the following:

17 "Sec. \_\_\_\_ NEW SECTION. 172C.2 PURCHASE REPORTS  
18 -- FILING.

19 1. A packer shall file purchase reports with the  
20 department which include information relating to the  
21 purchase of livestock as required by the department.  
22 The purchase reports shall be completed in a manner  
23 prescribed by the department. The department may  
24 require that purchase reports be filed in an  
25 electronic format. A packer shall file purchase  
26 reports at times determined practicable by the  
27 department, but not later than two business days  
28 following the event being reported.

29 2. a. The information required to be reported may  
30 include but is not limited to livestock purchased,  
31 committed for delivery, or slaughtered. The  
32 information may include the volume of daily purchases  
33 and the weight, grade, and price paid for livestock,  
34 including all premiums, discounts, or adjustments. If  
35 livestock is purchased pursuant to contract, the  
36 department may require that information in the  
37 purchase report be categorized by the type of  
38 contract. The purchase reports shall allow the  
39 department to compare prices paid under contract with  
40 cash market prices.

41 b. This section does not require that information  
42 reported include future plans, events, or  
43 transactions, unless provided for by contract.

44 3. The department may provide for the public  
45 dissemination of information contained in purchase  
46 reports.

47 a. The department may enter into an agreement with  
48 the United States department of agriculture or any  
49 private marketing service in order to disseminate  
50 information contained in purchase reports.

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1 b. The department, in consultation with the office  
2 of attorney general, shall designate information in  
3 purchase reports that reveals the identity of a packer  
4 or livestock seller as confidential pursuant to  
5 section 22.7.

6 Sec. \_\_\_\_ . NEW SECTION. 172C.3 PURCHASE NOTICE --  
7 POSTING.

8 1. a. A packer shall post a purchase notice which  
9 includes information relating to the purchase of  
10 livestock as required by the department. The  
11 information contained in the purchase notice shall  
12 include a summary of information required to be filed  
13 in purchase reports as provided in section 172C.2.

14 b. This section does not require that information  
15 contained in a purchase notice include future plans,  
16 events, or transactions unless provided for by  
17 contract.

18 2. The information contained in the purchase  
19 notice shall appear in a format that can be understood  
20 by a reasonable person familiar with selling  
21 livestock. The notice shall be posted in a  
22 conspicuous place at the point of delivery in a manner  
23 prescribed by the department.

24 Sec. \_\_\_\_ . NEW SECTION. 172C.4 CONFIDENTIALITY  
25 PROVISIONS IN CONTRACTS PROHIBITED.

26 1. A packer shall not include a provision in a  
27 contract executed on or after the effective date of  
28 this section for the purchase of livestock providing  
29 that information contained in the contract is  
30 confidential.

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

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

47 1. The department, in consultation with the office  
48 of attorney general, shall adopt rules necessary in  
49 order to administer this chapter.

50 2. The department may establish different rules

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1 according to the species of livestock governing all of  
2 the following:

3 a. Purchase reporting requirements pursuant to  
4 section 172C.2.

5 b. Purchase notice posting requirements pursuant  
6 to section 172C.3.

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

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

10 b. The department shall notify the attorney  
11 general's office if the department has reason to  
12 believe that a violation of section 172C.2 has  
13 occurred.

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

16 a. Apply to the district court for an injunction  
17 to do any of the following:

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

20 (2) Require a packer to comply with a provision of  
21 this chapter.

22 b. Apply to district court for the issuance of a  
23 subpoena to obtain contracts, documents, or other  
24 records for purposes of enforcing this chapter.

25 c. Bring an action in district court to enforce  
26 penalties provided in this chapter, including the  
27 imposition, assessment, and collection of monetary  
28 penalties.

29 3. The attorney general shall have access to all  
30 information reported by packers pursuant to section  
31 172C.2, regardless of whether the information is  
32 confidential. The attorney general may use the  
33 information in order to enforce this chapter or may  
34 submit the information to a federal agency.

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

36 1. A packer who fails to file a timely, accurate,  
37 or complete purchase report as required pursuant to  
38 section 172C.2 is subject to a civil penalty of not  
39 more than five thousand dollars. Each failure by a  
40 packer to file a timely, accurate, or complete  
41 purchase report constitutes a separate violation.

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

48 3. A packer who includes a confidentiality  
49 provision in a contract with a livestock seller in  
50 violation of section 172C.4 is guilty of a fraudulent

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1 practice as provided in section 714.8.

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

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

7 Sec. \_\_\_\_\_. APPLICABILITY. A packer shall provide  
8 purchase reports to the department of agriculture and  
9 land stewardship as required in section 172C.2 and  
10 shall post a purchase notice as provided in section  
11 172C.3, as enacted in this Act, for each species of  
12 livestock as defined in section 172C.1, as enacted in  
13 this Act, in accordance with rules adopted by the  
14 department governing that species.

15 Sec. \_\_\_\_\_. FUTURE REPEAL OF SECTIONS AND  
16 ELIMINATION OF PROVISIONS -- IMPLEMENTATION OF FEDERAL  
17 STATUTES AND REGULATIONS.

18 1. Subject to subsection 2, all of the following  
19 shall apply:

20 a. If the federal government implements a statute  
21 or regulation that is substantially similar to or more  
22 stringent than purchase reporting requirements  
23 provided in section 172C.2 and penalties provided in  
24 section 172C.7, subsection 1, as enacted by this Act,  
25 all of the following shall apply:

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

27 (2) All of the following sections are amended as  
28 follows:

29 (a) Section 22.7, subsection 38, by striking the  
30 subsection.

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

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

35 (d) Section 172C.6, subsection 3, by striking the  
36 subsection.

37 (e) Section 172C.7, subsection 1, by striking the  
38 subsection.

39 b. If the federal government implements a statute  
40 or regulation that is substantially similar to or more  
41 stringent than purchase notice requirements provided  
42 in section 172C.3 and penalties provided in section  
43 172C.7, subsection 2, as enacted by this Act, all of  
44 the following shall apply:

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

46 (2) All of the following sections are amended as  
47 follows:

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

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

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1 subsection.

2 c. If the federal government implements a statute  
3 or regulation that is substantially similar to or more  
4 stringent than purchase reporting requirements and  
5 penalties as described in paragraph "a" and purchase  
6 notice requirements and penalties as described in  
7 paragraph "b", section 172C.5, subsection 2, is  
8 amended by striking the subsection.

9 2. Paragraph "a", "b", or "c", as provided in  
10 subsection 1, shall become applicable only upon a  
11 finding by the secretary of agriculture that the  
12 federal government has implemented a statute or  
13 regulation as provided in that specific paragraph in  
14 accordance with an order issued by the secretary of  
15 agriculture and filed with the secretary of state.  
16 The secretary of agriculture shall issue an order only  
17 after consulting with the attorney general.

18 3. The secretary of agriculture shall forward a  
19 copy of an order issued under this section to all of  
20 the following:

21 a. The governor.

22 b. The secretary of the senate and the chief clerk  
23 of the house of representatives.

24 c. The attorney general.

25 d. The Code editor and the administrative code  
26 editor.

27 4. The Code editor may recommend that any  
28 provision of chapter 172C, as enacted in this Act, be  
29 amended or eliminated in a Code editor's bill as  
30 necessary in order to conform the provisions of the  
31 chapter as provided in this section.

32 Sec. \_\_\_\_ . EFFECTIVE DATES.

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

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

40 4. Title page, by striking lines 2 through 4 and  
41 inserting the following: "concerning packers, by  
42 providing for the regulation of certain purchase  
43 information and contracting, and providing penalties  
44 and effective dates."

By JEFF ANGELO

S-3337 FILED APRIL 12, 1999

*adapted*  
*4/14/99 (P.1115)*

## SENATE FILE 436

S-3352

1 Amend Senate File 436 as follows:

2 1. Page 1, line 2, by striking the word "live"  
3 and inserting the following: "a live animal  
4 classified as".

5 2. Page 3, by inserting before line 15, the  
6 following:

7 "Sec. 100. ANALYSIS BY THE ATTORNEY GENERAL.

8 1. The office of attorney general, in cooperation  
9 with the department of agriculture and land  
10 stewardship, shall conduct an analysis to determine  
11 the extent to which packers discriminate in prices  
12 paid or offered to be paid to sellers of livestock,  
13 including livestock purchased pursuant to contract or  
14 on a cash market basis. As part of its analysis, the  
15 office of attorney general shall determine the extent  
16 to which discrimination is based on the number of  
17 livestock that a livestock seller delivers to a packer  
18 and the regularity or frequency that a livestock  
19 seller delivers livestock to a packer.

20 2. In conducting its analysis, the office of  
21 attorney general may examine the records of a packer,  
22 including its books, accounts, papers, contracts, and  
23 documents. The office of attorney general may apply  
24 to district court for the issuance of a subpoena  
25 necessary to enforce this section.

26 3. The office of attorney general shall report the  
27 results of its analysis to the general assembly not  
28 later than January 10, 2000.

29 Sec. \_\_\_\_ . EFFECTIVE DATE. Section 100 of this  
30 Act, being deemed of immediate importance, takes  
31 effect upon enactment."

32 3. By renumbering as necessary.

By JOHN P. KIBBIE  
BETTY A. SOUKUP  
EUGENE S. FRAISE

MARK SHEARER  
DENNIS H. BLACK

S-3352 FILED APRIL 13, 1999

*Lost 4/14/99 (p.1115)*

SENATE FILE 436

S-3350

1 Amend the amendment, S-3337, to Senate File 436, as  
2 follows:

3 1. Page 5, by striking lines 32 through 39 and  
4 inserting the following:

5 "Sec. \_\_\_\_ . EFFECTIVE DATE. This Act, being deemed  
6 of immediate importance, takes effect upon  
7 enactment."

8 2. Page 5, by striking line 44 and inserting the  
9 following: "and an effective date."

By JOHN P. KIBBIE  
BETTY A. SOUKUP  
JOHN JUDGE

EUGENE S. FRAISE  
MARK SHEARER  
DENNIS H. BLACK

S-3350 FILED APRIL 13, 1999

*Lost 4-14-99*  
*(P. 114)*

SENATE FILE 436

S-3351

1 Amend the amendment, S-3337, to Senate File 436, as  
2 follows:

3 1. Page 1, line 29, by striking the letter "a."

4 2. Page 1, by striking lines 41 through 43.

5 3. Page 1, line 44, by striking the word "may"  
6 and inserting the following: "shall".

7 4. Page 2, line 8, by striking the letter "a."

8 5. Page 2, by striking lines 14 through 17.

9 6. Page 2, line 32, by striking the word  
10 "executed" and inserting the following: "in force".

11 7. Page 2, by striking lines 43 through 45, and  
12 inserting the following: "the voided provision."

By JOHN P. KIBBIE  
BETTY A. SOUKUP  
EUGENE S. FRAISE

MARK SHEARER  
DENNIS H. BLACK

S-3351 FILED APRIL 13, 1999

*Lost*  
*4/14/99*  
*(P. 113)*

## SENATE FILE 436

S-3353

1 Amend the amendment, S-3337, to Senate File 436, as  
2 follows:

3 1. Page 1, line 10, by striking the figure  
4 "172C.2" and inserting the following: "172C.3".

5 2. Page 1, by inserting after line 16 the  
6 following:

7 "Section \_\_\_\_. NEW SECTION. 172C.2 PRICE  
8 DISCRIMINATION -- PROHIBITION.

9 1. Except as provided in subsection 2, a packer  
10 purchasing or soliciting livestock or executing a  
11 contract for the purchase of livestock shall not  
12 discriminate in the price paid or offered to be paid  
13 to sellers of that livestock.

14 2. Subsection 1 shall not apply if all of the  
15 following requirements are met:

16 a. The price difference is based on criteria  
17 established by rules adopted by the department in  
18 consultation with the office of attorney general. The  
19 rules shall permit differential pricing based on any  
20 of the following:

21 (1) Carcass merit, including the quality of the  
22 carcass and premium characteristics associated with  
23 the livestock which may include its breed.

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

27 (3) An agreement for the delivery of livestock at  
28 a specified date or time. The specified date or time  
29 must occur during a period in which the supply of  
30 livestock cannot meet existing slaughter capacity.

31 b. After making a differential payment to a  
32 seller, the packer publishes information relating to  
33 the differential pricing as provided in paragraph "a",  
34 and that the packer offers to purchase livestock or  
35 execute a contract for the purchase of livestock  
36 according to the same terms and conditions offered to  
37 other sellers under a differential pricing  
38 arrangement.

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

43 4. An agreement made by a packer in violation of  
44 this section is voidable.

45 5. A packer acting in violation of this section is  
46 guilty of a fraudulent practice as provided in chapter  
47 714.

48 6. Any person injured by a violation of this  
49 section may bring an action in district court to  
50 restrain a packer from violating this section. A

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Page 2

1 seller who receives a discriminatory price or who is  
2 offered only a discriminatory price for livestock  
3 based upon a violation of this section by a packer,  
4 has a civil cause of action against the packer and, if  
5 successful, shall be awarded treble damages."

6 3. Page 1, line 17, by striking the figure  
7 "172C.2" and inserting the following: "172C.3".

8 4. Page 2, line 6, by striking the figure  
9 "172C.3" and inserting the following: "172C.4".

10 5. Page 2, line 13, by striking the figure  
11 "172C.2" and inserting the following: "172C.3".

12 6. Page 2, line 24, by striking the figure  
13 "172C.4" and inserting the following: "172C.5".

14 7. Page 2, line 46, by striking the figure  
15 "172C.5" and inserting the following: "172C.6".

16 8. Page 3, by inserting after line 2 the  
17 following:

18 "     . Price disclosure requirements pursuant to  
19 section 172C.2".

20 9. Page 3, line 4, by striking the figure  
21 "172C.2" and inserting the following: "172C.3".

22 10. Page 3, line 6, by striking the figure  
23 "172C.3" and inserting the following: "172C.4".

24 11. Page 3, line 7, by striking the figure  
25 "172C.6" and inserting the following: "172C.7".

26 12. Page 3, line 12, by striking the figure  
27 "172C.2" and inserting the following: "172C.3".

28 13. Page 3, line 31, by striking the figure  
29 "172C.2" and inserting the following: "172C.3".

30 14. Page 3, line 35, by striking the figure  
31 "172C.7" and inserting the following: "172C.8".

32 15. Page 3, by inserting after line 35 the  
33 following:

34 "     . A packer who discriminates in prices paid  
35 for livestock in violation of section 172C.2 is  
36 subject to a civil penalty of not more than five  
37 thousand dollars."

38 16. Page 3, line 38, by striking the figure  
39 "172C.2" and inserting the following: "172C.3".

40 17. Page 3, line 44, by striking the figure  
41 "172C.3" and inserting the following: "172C.4".

42 18. Page 3, line 50, by striking the figure  
43 "172C.4" and inserting the following: "172C.5".

44 19. Page 4, line 6, by striking the figure  
45 "172C.4" and inserting the following: "172C.5".

46 20. Page 4, line 9, by striking the figure  
47 "172C.2" and inserting the following: "172C.3".

48 21. Page 4, line 11, by striking the figure  
49 "172C.3" and inserting the following: "172C.4".

50 22. Page 4, line 23, by striking the figure

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Page 3

1 "172C.2" and inserting the following: "172C.3".  
2 23. Page 4, line 24, by striking the figure  
3 "172C.7" and inserting the following: "172C.8".  
4 24. Page 4, line 24, by striking the figure "1"  
5 and inserting the following: "2".  
6 25. Page 4, line 26, by striking the figure  
7 "172C.2" and inserting the following: "172C.3".  
8 26. Page 4, line 31, by striking the figure  
9 "172C.5" and inserting the following: "172C.6".  
10 27. Page 4, line 31, by striking the word "a" and  
11 inserting the following: "b".  
12 28. Page 4, line 33, by striking the figure  
13 "172C.6" and inserting the following: "172C.7".  
14 29. Page 4, line 35, by striking the figure  
15 "172C.6" and inserting the following: "172C.7".  
16 30. Page 4, line 37, by striking the figure  
17 "172C.7" and inserting the following: "172C.8".  
18 31. Page 4, line 37, by striking the figure "1"  
19 and inserting the following: "2".  
20 32. Page 4, line 42, by striking the figure  
21 "172C.3" and inserting the following: "172C.4".  
22 33. Page 4, line 43, by striking the figure  
23 "172C.7" and inserting the following: "172C.8".  
24 34. Page 4, line 43, by striking the figure "2"  
25 and inserting the following: "3".  
26 35. Page 4, line 45, by striking the figure  
27 "172C.3" and inserting the following: "172C.4".  
28 36. Page 4, line 48, by striking the figure  
29 "172C.5" and inserting the following: "172C.6".  
30 37. Page 4, line 48, by striking the word "b" and  
31 inserting the following: "c".  
32 38. Page 4, line 50, by striking the figure  
33 "172C.7" and inserting the following: "172C.8".  
34 39. Page 4, line 50, by striking the figure "2"  
35 and inserting the following: "3".  
36 40. Page 5, line 7, by striking the figure  
37 "172C.5" and inserting the following: "172C.6".  
38 41. Page 5, line 35, by striking the figure  
39 "172C.4" and inserting the following: "172C.2,  
40 172C.5".  
41 42. Page 5, line 35, by striking the figure  
42 "172C.6" and inserting the following: "172C.7".  
43 43. Page 5, line 36, by striking the figure  
44 "172C.7" and inserting the following: "172C.8".  
45 44. Page 5, line 36, by striking the word and  
46 figure "subsection 3" and inserting the following:  
47 "subsections 1 and 4".  
48 45. Page 5, line 42, by inserting after the word  
49 "certain" the following: "pricing practices,".  
50 46. Page 5, line 43, by striking the word

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Page 4

- 1 "information" and inserting the following:
- 2 "information,".
- 3 47. By renumbering as necessary.

By JOHN P. KIBBIE  
EUGENE S. FRAISE

DENNIS H. BLACK  
MARK SHEARER

S-3353 FILED APRIL 13, 1999

ADOPTED (P. 1095) Motion to R/c by <sup>4/13</sup> ~~Bittner~~ (R1107) - Motion prevailed 4/14/99 (P. 1111)

now lost 4/14/99 (R1112) SENATE FILE 436

S-3355

- 1 Amend the amendment S-3337, to Senate File 436, as
- 2 follows:
- 3 1. Page 5, by inserting after line 31, the
- 4 following:
- 5 "Sec. 100. RULEMAKING. The department of
- 6 agriculture and land stewardship shall commence
- 7 rulemaking as required in section 172C.5, as enacted
- 8 in this Act, as soon as practicable upon the enactment
- 9 of this Act. However, rules adopted by the department
- 10 shall not be made effective prior to July 1, 2000, for
- 11 a provision of this Act that takes effect on that
- 12 date."
- 13 2. Page 5, line 37, by inserting after the figure
- 14 "17" the following: "section 100,".
- 15 3. By renumbering as necessary.

By MERLIN E. BARTZ

S-3355 FILED APRIL 13, 1999

*adopted*  
4/14/99 (P. 1114)

*Substitutes you in*  
4/20/99  
(p. 1471)

SENATE FILE 436  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 131)

(AS AMENDED AND PASSED BY THE SENATE APRIL 14, 1999)

\_\_\_\_\_ - New Language by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, Date <sup>(p. 1480)</sup> 4/20/99  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 98 Nays 0  
Approved April 29, 1999

**A BILL FOR**

1 An Act relating to practices involving the marketing of livestock  
2 concerning packers, by providing for the regulation of certain  
3 purchase information and contracting, and providing penalties  
4 and effective dates.

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

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S.F. 436

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

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

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

8 1. "Department" means the department of agriculture and  
9 land stewardship.

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

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

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

22 1. A packer shall file purchase reports with the  
23 department which include information relating to the purchase  
24 of livestock as required by the department. The purchase  
25 reports shall be completed in a manner prescribed by the  
26 department. The department may require that purchase reports  
27 be filed in an electronic format. A packer shall file  
28 purchase reports at times determined practicable by the  
29 department, but not later than two business days following the  
30 event being reported.

31 2. a. The information required to be reported may include  
32 but is not limited to livestock purchased, committed for  
33 delivery, or slaughtered. The information may include the  
34 volume of daily purchases and the weight, grade, and price  
35 paid for livestock, including all premiums, discounts, or

1 adjustments. If livestock is purchased pursuant to contract,  
2 the department may require that information in the purchase  
3 report be categorized by the type of contract. The purchase  
4 reports shall allow the department to compare prices paid  
5 under contract with cash market prices.

6 b. This section does not require that information reported  
7 include future plans, events, or transactions, unless provided  
8 for by contract.

9 3. The department may provide for the public dissemination  
10 of information contained in purchase reports.

11 a. The department may enter into an agreement with the  
12 United States department of agriculture or any private  
13 marketing service in order to disseminate information  
14 contained in purchase reports.

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

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

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

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

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

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

1 1. A packer shall not include a provision in a contract  
2 executed on or after the effective date of this section for  
3 the purchase of livestock providing that information contained  
4 in the contract is confidential.

5 2. A provision which is part of a contract for the  
6 purchase of livestock executed on and after the effective date  
7 of this section for the purchase of livestock is void, if the  
8 provision states that information contained in the contract is  
9 confidential. The provision is void regardless of whether the  
10 confidentiality provision is express or implied; oral or  
11 written; required or conditional; contained in the contract,  
12 another contract, or in a related document, policy, or  
13 agreement. This section does not affect other provisions of a  
14 contract or a related document, policy, or agreement which can  
15 be given effect without the voided provision. This section  
16 does not require either party to the contract to divulge the  
17 information in the contract to another person.

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

19 1. The department, in consultation with the office of  
20 attorney general, shall adopt rules necessary in order to  
21 administer this chapter.

22 2. The department may establish different rules according  
23 to the species of livestock governing all of the following:

24 a. Purchase reporting requirements pursuant to section  
25 172C.2.

26 b. Purchase notice posting requirements pursuant to  
27 section 172C.3.

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

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

31 b. The department shall notify the attorney general's  
32 office if the department has reason to believe that a  
33 violation of section 172C.2 has occurred.

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

1 a. Apply to the district court for an injunction to do any  
2 of the following:

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

5 (2) Require a packer to comply with a provision of this  
6 chapter.

7 b. Apply to district court for the issuance of a subpoena  
8 to obtain contracts, documents, or other records for purposes  
9 of enforcing this chapter.

10 c. Bring an action in district court to enforce penalties  
11 provided in this chapter, including the imposition,  
12 assessment, and collection of monetary penalties.

13 3. The attorney general shall have access to all  
14 information reported by packers pursuant to section 172C.2,  
15 regardless of whether the information is confidential. The  
16 attorney general may use the information in order to enforce  
17 this chapter or may submit the information to a federal  
18 agency.

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

20 1. A packer who fails to file a timely, accurate, or  
21 complete purchase report as required pursuant to section  
22 172C.2 is subject to a civil penalty of not more than five  
23 thousand dollars. Each failure by a packer to file a timely,  
24 accurate, or complete purchase report constitutes a separate  
25 violation.

26 2. A packer who fails to post a timely, accurate, or  
27 complete purchase notice as required pursuant to section  
28 172C.3 is subject to a civil penalty of not more than one  
29 thousand dollars. Each failure by a packer to post a timely,  
30 accurate, or complete purchase notice constitutes a separate  
31 violation.

32 3. A packer who includes a confidentiality provision in a  
33 contract with a livestock seller in violation of section  
34 172C.4 is guilty of a fraudulent practice as provided in  
35 section 714.8.



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

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

6 Sec. 10. APPLICABILITY. A packer shall provide purchase  
7 reports to the department of agriculture and land stewardship  
8 as required in section 172C.2 and shall post a purchase notice  
9 as provided in section 172C.3, as enacted in this Act, for  
10 each species of livestock as defined in section 172C.1, as  
11 enacted in this Act, in accordance with rules adopted by the  
12 department governing that species.

13 Sec. 11. FUTURE REPEAL OF SECTIONS AND ELIMINATION OF  
14 PROVISIONS -- IMPLEMENTATION OF FEDERAL STATUTES AND  
15 REGULATIONS.

16 1. Subject to subsection 2, all of the following shall  
17 apply:

18 a. If the federal government implements a statute or  
19 regulation that is substantially similar to or more stringent  
20 than purchase reporting requirements provided in section  
21 172C.2 and penalties provided in section 172C.7, subsection 1,  
22 as enacted by this Act, all of the following shall apply:

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

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

25 (a) Section 22.7, subsection 38, by striking the  
26 subsection.

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

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

31 (d) Section 172C.6, subsection 3, by striking the  
32 subsection.

33 (e) Section 172C.7, subsection 1, by striking the  
34 subsection.

35 b. If the federal government implements a statute or

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

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

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

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

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

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

17 2. Paragraph "a", "b", or "c", as provided in subsection  
18 1, shall become applicable only upon a finding by the  
19 secretary of agriculture that the federal government has  
20 implemented a statute or regulation as provided in that  
21 specific paragraph in accordance with an order issued by the  
22 secretary of agriculture and filed with the secretary of  
23 state. The secretary of agriculture shall issue an order only  
24 after consulting with the attorney general.

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

27 a. The governor.

28 b. The secretary of the senate and the chief clerk of the  
29 house of representatives.

30 c. The attorney general.

31 d. The Code editor and the administrative code editor.

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

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

7 Sec. 13. EFFECTIVE DATES.

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

10 2. Section 172C.4, section 172C.6, subsection 2, section  
11 172C.7, subsection 3, section 714.8, subsection 17, section  
12 12, and this section as enacted by this Act, being deemed of  
13 immediate importance, take effect upon enactment.

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H-1649

1 Amend Senate File 436, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 7, by striking lines 4 through 6 and  
4 inserting the following: "upon the enactment of this  
5 Act."

6 2. Page 7, by striking lines 7 through 13 and  
7 inserting the following:

8 "Sec. \_\_\_\_ . EFFECTIVE DATE. This Act, being deemed  
9 of immediate importance, takes effect upon enactment."

10 3. Title page, by striking line 4 and inserting  
11 the following: "and an effective date."

By FREVERT of Palo Alto

DREES of Carroll

WISE of Lee

MERTZ of Kossuth

STEVENS of Dickinson

SCHERRMAN of Dubuque

KUHN of Floyd

PARMENTER of Story

HOLVECK of Polk

BUKTA of Clinton

LARKIN of Lee

JOCHUM of Dubuque

RICHARDSON of Warren

WITT of Black Hawk

MUNDIE of Webster

OSTERHAUS of Jackson

MAY of Worth

MURPHY of Dubuque

WEIGEL of Chickasaw

H-1649 FILED APRIL 15, 1999

*Lost 4/20/99 (P. 1478)*

## SENATE FILE 436

H-1683

1 Amend Senate File 436, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 31, by striking the letter "a."

4 2. Page 2, by striking lines 6 through 8.

5 3. Page 2, line 9, by striking the word "may" and  
6 inserting the following: "shall".

7 4. Page 2, line 20, by striking the letter "a."

8 5. Page 2, by striking lines 26 through 28.

9 6. Page 3, line 2, by inserting after the word  
10 "executed" the following: ", amended, or in force".

11 7. Page 3, line 6, by inserting after the word  
12 "executed" the following: ", amended, or in force".

13 8. Page 3, by striking lines 15 through 17, and  
14 inserting the following: "be given effect without the  
15 voided provision."

By FREVERT of Palo Alto

SCHERRMAN of Dubuque

KUHN of Floyd

H-1683 FILED APRIL 19, 1999

*Lost 4/20/99  
(P. 1477)*

## SENATE FILE 436

H-1684

1 Amend Senate File 436, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 29, by striking the words "two  
4 business days" and inserting the following: "the end  
5 of the business day".

By MUNDIE of Webster

KUHN of Floyd

H-1684 FILED APRIL 19, 1999

*Lost 4/20/99*

*(P. 1476)*

## SENATE FILE 436

H-1685

1 Amend Senate File 436, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 6, by striking the figure  
4 "172C.2" and inserting the following: "172C.3".

5 2. Page 1, by inserting after line 20 the  
6 following:

7 "Sec. \_\_\_\_ . NEW SECTION. 172C.2 PRICE  
8 DISCRIMINATION -- PROHIBITION.

9 1. Except as provided in subsection 2, a packer  
10 purchasing or soliciting livestock or executing a  
11 contract for the purchase of livestock shall not  
12 discriminate in the price paid or offered to be paid  
13 to sellers of that livestock.

14 2. Subsection 1 shall not apply if all of the  
15 following requirements are met:

16 a. The price difference is based on criteria  
17 established by rules adopted by the department in  
18 consultation with the office of attorney general. The  
19 rules shall permit differential pricing based on any  
20 of the following:

21 (1) Carcass merit, including the quality of the  
22 carcass and premium characteristics associated with  
23 the livestock which may include its breed.

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

27 (3) An agreement for the delivery of livestock at  
28 a specified date or time. The specified date or time  
29 must occur during a period in which the supply of  
30 livestock cannot meet existing slaughter capacity.

31 b. After making a differential payment to a  
32 seller, the packer publishes information relating to  
33 the differential pricing as provided in paragraph "a",  
34 and that the packer offers to purchase livestock or  
35 execute a contract for the purchase of livestock  
36 according to the same terms and conditions offered to  
37 other sellers under a differential pricing  
38 arrangement.

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

43 4. An agreement made by a packer in violation of  
44 this section is voidable by the seller of the  
45 livestock.

46 5. A packer acting in violation of this section is  
47 guilty of a fraudulent practice as provided in chapter  
48 714.

49 6. Any person injured by a violation of this  
50 section may bring an action in district court to

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Page 2

1 restrain a packer from violating this section. A  
2 seller who receives a discriminatory price or who is  
3 offered only a discriminatory price for livestock  
4 based upon a violation of this section by a packer,  
5 has a civil cause of action against the packer and, if  
6 successful, shall be awarded treble damages."

7 3. Page 1, line 21, by striking the figure  
8 "172C.2" and inserting the following: "172C.3".

9 4. Page 2, line 19, by striking the figure  
10 "172C.3" and inserting the following: "172C.4".

11 5. Page 2, line 25, by striking the figure  
12 "172C.2" and inserting the following: "172C.3".

13 6. Page 2, line 34, by striking the figure  
14 "172C.4" and inserting the following: "172C.5".

15 7. Page 3, line 18, by striking the figure  
16 "172C.5" and inserting the following: "172C.6".

17 8. Page 3, by inserting after line 23 the  
18 following:

19 "\_\_\_\_\_. Price disclosure requirements pursuant to  
20 section 172C.2".

21 9. Page 3, line 25, by striking the figure  
22 "172C.2" and inserting the following: "172C.3".

23 10. Page 3, line 27, by striking the figure  
24 "172C.3" and inserting the following: "172C.4".

25 11. Page 3, line 28, by striking the figure  
26 "172C.6" and inserting the following: "172C.7".

27 12. Page 3, line 33, by striking the figure  
28 "172C.2" and inserting the following: "172C.3".

29 13. Page 4, line 14, by striking the figure  
30 "172C.2" and inserting the following: "172C.3".

31 14. Page 4, line 19, by striking the figure  
32 "172C.7" and inserting the following: "172C.8".

33 15. Page 4, by inserting after line 19 the  
34 following:

35 "1. A packer who discriminates in prices paid for  
36 livestock in violation of section 172C.2 is subject to  
37 a civil penalty of not more than five thousand  
38 dollars."

39 16. Page 4, line 22, by striking the figure  
40 "172C.2" and inserting the following: "172C.3".

41 17. Page 4, line 28, by striking the figure  
42 "172C.3" and inserting the following: "172C.4".

43 18. Page 4, line 34, by striking the figure  
44 "172C.4" and inserting the following: "172C.5".

45 19. Page 5, line 5, by striking the figure  
46 "172C.4" and inserting the following: "172C.5".

47 20. Page 5, line 8, by striking the figure  
48 "172C.2" and inserting the following: "172C.3".

49 21. Page 5, line 9, by striking the figure  
50 "172C.3" and inserting the following: "172C.4".

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Page 3

1 22. Page 5, line 21, by striking the figure  
2 "172C.2" and inserting the following: "172C.3".  
3 23. Page 5, line 21, by striking the figure  
4 "172C.7" and inserting the following: "172C.8".  
5 24. Page 5, line 21, by striking the figure "1"  
6 and inserting the following: "2".  
7 25. Page 5, line 23, by striking the figure  
8 "172C.2" and inserting the following: "172C.3".  
9 26. Page 5, line 27, by striking the figure  
10 "172C.5" and inserting the following: "172C.6".  
11 27. Page 5, line 27, by striking the word "a" and  
12 inserting the following: "b".  
13 28. Page 5, line 29, by striking the figure  
14 "172C.6" and inserting the following: "172C.7".  
15 29. Page 5, line 31, by striking the figure  
16 "172C.6" and inserting the following: "172C.7".  
17 30. Page 5, line 33, by striking the figure  
18 "172C.7" and inserting the following: "172C.8".  
19 31. Page 5, line 33, by striking the figure "1"  
20 and inserting the following: "2".  
21 32. Page 6, line 2, by striking the figure  
22 "172C.3" and inserting the following: "172C.4".  
23 33. Page 6, line 3, by striking the figure  
24 "172C.7" and inserting the following: "172C.8".  
25 34. Page 6, line 3, by striking the figure "2"  
26 and inserting the following: "3".  
27 35. Page 6, line 5, by striking the figure  
28 "172C.3" and inserting the following: "172C.4".  
29 36. Page 6, line 7, by striking the figure  
30 "172C.5" and inserting the following: "172C.6".  
31 37. Page 6, line 7, by striking the figure "b"  
32 and inserting the following: "c".  
33 38. Page 6, line 9, by striking the figure  
34 "172C.7" and inserting the following: "172C.8".  
35 39. Page 6, line 9, by striking the figure "2"  
36 and inserting the following: "3".  
37 40. Page 6, line 15, by striking the figure  
38 "172C.5" and inserting the following: "172C.6".  
39 41. Page 6, by striking line 16 and inserting the  
40 following: "subsection 2, paragraph "b" and "c", are  
41 amended by striking the paragraphs."  
42 42. Page 7, line 3, by striking the figure  
43 "172C.5" and inserting the following: "172C.6".  
44 43. Page 7, line 10, by striking the figure  
45 "172C.4" and inserting the following: "172C.2,  
46 172C.5".  
47 44. Page 7, line 10, by striking the figure  
48 "172C.6" and inserting the following: "172C.7".  
49 45. Page 7, line 11, by striking the figure  
50 "172C.7" and inserting the following: "172C.8".

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Page 4

- 1 46. Page 7, line 11, by striking the word and
- 2 figure "subsection 3" and inserting the following:
- 3 "subsections 1 and 4".
- 4 47. Title page, line 2, by inserting after the
- 5 word "certain" the following: "pricing practices,".
- 6 48. Title page, line 3, by striking the word
- 7 "information" and inserting the following:
- 8 "information,".
- 9 49. By renumbering as necessary.

By DREES of Carroll

MERTZ of Kossuth

FREVERT of Palo Alto

WISE of Lee

STEVENS of Dickinson

SCHERRMAN of Dubuque

KUHN of Floyd

PARMENTER of Story

HOLVECK of Polk

BUKTA of Clinton

LARKIN of Lee

JOCHUM of Dubuque

RICHARDSON of Warren

WITT of Black Hawk

MUNDIE of Webster

OSTERHAUS of Jackson

MAY of Worth

MURPHY of Dubuque

WEIGEL of Chickasaw

REYNOLDS of Van Buren

H-1685 FILED APRIL 19, 1999

*Lat*  
*4/20/99*  
*(P. 1476)*

SENATE FILE 436

H-1701

- 1 Amend Senate File 436, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 7, by inserting after line 6 the
- 4 following:
- 5 "Sec. \_\_\_\_ . LIVESTOCK CONTRACTING STUDY. The
- 6 legislative council is requested to establish an
- 7 interim committee to study issues relating to
- 8 practices involving contracts for the production and
- 9 marketing of livestock, including but not limited to
- 10 contracts executed by packers and cooperative
- 11 associations. The interim committee shall report the
- 12 findings and recommendations of its study, including
- 13 any proposed legislation, as required by the
- 14 legislative council prior to the 2000 Session of the
- 15 Seventy-eighth General Assembly."
- 16 2. By renumbering as necessary.

By MUNDIE of Webster

H-1701 FILED APRIL 20, 1999

*Lat* 4/20/99 (P. 1479)



AN ACT  
RELATING TO PRACTICES INVOLVING THE MARKETING OF LIVESTOCK  
CONCERNING PACKERS, BY PROVIDING FOR THE REGULATION OF CERTAIN  
PURCHASE INFORMATION AND CONTRACTING, AND PROVIDING PENALTIES  
AND EFFECTIVE DATES.

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

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

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

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

1. "Department" means the department of agriculture and land stewardship.
2. "Livestock" means live cattle, swine, or sheep.
3. "Packer" means a person who is engaged in the business of slaughtering livestock or receiving, purchasing, or soliciting livestock for slaughter, if the meat products of the slaughtered livestock which are directly or indirectly to be offered for resale or for public consumption and the meat products have a total annual value of ten million dollars or more. As used in this chapter, "packer" includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer. "Packer" does not include a frozen food locker plant regulated under chapter 172.

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

1. A packer shall file purchase reports with the department which include information relating to the purchase of livestock as required by the department. The purchase reports shall be completed in a manner prescribed by the department. The department may require that purchase reports be filed in an electronic format. A packer shall file

purchase reports at times determined practicable by the department, but not later than two business days following the event being reported.

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

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

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

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

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

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

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

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

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

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

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

2. A provision which is part of a contract for the purchase of livestock executed on and after the effective date of this section for the purchase of livestock is void, if the provision states that information contained in the contract is confidential. The provision is void regardless of whether the confidentiality provision is express or implied; oral or written; required or conditional; contained in the contract, another contract, or in a related document, policy, or agreement. This section does not affect other provisions of a contract or a related document, policy, or agreement which can be given effect without the voided provision. This section does not require either party to the contract to divulge the information in the contract to another person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Section 172C.2 is repealed.

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

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

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

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

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

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

b. If the federal government implements a statute or regulation that is substantially similar to or more stringent than purchase notice requirements provided in section 172C.3 and penalties provided in section 172C.7, subsection 2, as enacted by this Act, all of the following shall apply:

(1) Section 172C.3 is repealed.

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

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

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

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

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

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

a. The governor.

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

c. The attorney general.

d. The Code editor and the administrative code editor.

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

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

Sec. 13. EFFECTIVE DATES.

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

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

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MARY E. KRAMER  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 436, Seventy-eighth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved April 29, 1999

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THOMAS J. VILSACK  
Governor