

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1134

By: Laughlin

AS INTRODUCED

An Act relating to agriculture; creating the Competitive Livestock Markets Act; providing short title; defining terms; stating intent; prohibiting a packer from paying different prices to sellers of swine or cattle for slaughter; construing act; exempting certain requirements for direct, spot or cash purchase of swine or cattle for slaughter; requiring packer to report certain information; exempting certain requirements for contract to purchase swine or cattle for slaughter; providing measures for voiding of contract; allowing sellers to bring actions to recover certain damages; stating certain violation; setting fine; requiring price reporting to certain entities; requiring State Department of Agriculture to prepare forms; requiring Department to dispense information in a timely manner; providing punishment; requiring Attorney General to enforce certain provisions of act; requiring State Commissioner of Agriculture to report violation to the Attorney General; creating the Competitive Livestock Market Revolving Fund; providing source of funding; providing for expenditures; providing for payments of expenditures; authorizing Attorney General subpoena power; authorizing Attorney General to enter into reciprocal agreements with certain representatives; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141 of Title 2, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 15 of this act shall be known and may be cited as the "Competitive Livestock Markets Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

For purposes of the Competitive Livestock Markets Act:

1. "Animal unit" means one head of cattle, three (3) calves under four hundred fifty (450) pounds, or five (5) swine;
2. "Commissioner" means the State Commissioner of Agriculture;
3. "Department" means the State Department of Agriculture;
4. "Livestock" means live cattle or swine;
5. "Packer" means a person, or agent of such person, who purchases livestock in Oklahoma to be purchased for slaughter; and
6. "Person" includes individuals, firms, associations, limited liability companies, and corporations and officers or limited liability company members thereof.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that family farmers and ranchers have been experiencing, with greater frequency, severely depressed livestock market prices. These market conditions are disproportionately affecting independent producers, which make up the majority of farms and ranches, and are threatening the economic stability of Oklahoma rural communities. The Legislature further finds that packer concentration, vertical integration, and contractual arrangements are undermining the system of price discovery. In the absence of any meaningful federal response to the conditions described, the purpose of the Competitive Livestock Markets Act is to increase livestock market price transparency, ensuring that producers can compete in a free and open market. This is accomplished by establishing minimum price and contract reporting requirements, eliminating volume premiums and volume-based incentives and scrutinizing livestock production contracts and marketing agreements.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

Except as provided in Sections 5 and 6 of this act, it shall be unlawful for a packer purchasing or entering into a contract to purchase swine to pay or enter into a contract to pay different prices to the sellers of the swine. This section shall not be construed to mean that a price or payment method must remain fixed throughout any marketing period.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

Section 4 of this act does not apply to any direct, spot, or cash purchase of swine if the following requirements are met:

1. The difference in price is based on:

- a. a payment method specifying prices paid for criteria relating to carcass merit, or
- b. actual and quantifiable costs related to transporting and acquiring the swine by the packer; and

2. After making the payment to a seller, the packer reports the payment information required under Section 6 of this act, including the payment method specifying prices paid for criteria relating to carcass merit and transportation and acquisition costs.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Section 4 of this act does not apply to any contract to purchase swine at a certain date or time if the following requirements are met:

1. The difference in price is based on:

- a. a payment method specifying prices paid for criteria relating to carcass merit, or

b. actual and quantifiable costs related to transporting and acquiring the swine by the packer;

2. The packer reports the payment information required under Section 7 of this act, including the payment method specifying prices paid for criteria relating to carcass merit and transportation and acquisition costs;

3. The packer reports the information required under Section 7 of this act, including the price to be paid for swine to be delivered on specified delivery dates or times; and

4. An offer to enter into a contract for the delivery of swine, according to the same terms and conditions, is made to other sellers.

B. Any contract made by a packer in violation of Section 4 of this act is voidable by the seller.

C. A seller may bring an action against any packer violating Section 4 of this act to recover damages sustained by reason of such violation.

D. Any packer acting in violation of Section 4 of this act is guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) per violation.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Beginning February 15, 2001, a packer shall, two times each day during which swine are purchased, report to the State Department of Agriculture and to the United States Department of Agriculture, agricultural market service livestock news branch, all swine that are purchased in the cash, spot, or direct market since the last report. A packer shall, one time each day during which swine are purchased, report to the Department and to the United States Department of Agriculture, agricultural market service livestock news branch, all swine that are purchased by contract that day.

Such reports shall be completed on forms prepared by the State Department of Agriculture, in consultation with the agricultural market service livestock news branch, and shall include:

1. The cash price paid and the number of swine purchased in the cash, spot, or direct market at price intervals representative of the day's trade;

2. The base price paid and premium and discount payment adjustments for quality characteristics including grade, yield, and backfat;

3. Base price and premium and discount factors for swine purchased using a formula-based pricing system; and

4. The number of swine purchased under contract, in which the date of delivery is set for more than fourteen (14) days after the making of the contract, and the base price to be paid or the formula that will be used to determine the base price to be paid.

The report shall not include information regarding the identity of a seller.

B. The Department shall make a report of the information received under this section available to the public in a timely manner to permit the use of the information while it is still relevant.

C. The failure of a packer to report information to the Department as required in this section is punishable by a civil penalty not to exceed One Thousand Dollars (\$1,000.00) for each day that a complete report is not made available to the Department. The intentional reporting of false information by a packer in the report to the Department required in this section is a misdemeanor.

D. The Attorney General shall enforce the provisions of Sections 4 through 7 of this act, and the Commissioner of Agriculture shall refer any violations of these provisions to the Attorney General. The Attorney General or any person injured by a

violation of these provisions may bring an action in district court to restrain a packer from violating these provisions.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.7 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It is unlawful for a packer to enter into a contract to purchase cattle for slaughter if:

1. The contract specifies that the seller is not allowed to report the terms of the contract; or

2. The date of delivery of such cattle is not specified.

B. Provided, however, this subsection does not apply to the provisions of subsection A of this section if the following conditions are met:

1. The contract to purchase cattle for slaughter specifies the month of delivery and allows the seller to set the week for delivery within such month; and

2. The packer reports the contract information as required under Section 9 of this act, including specified delivery dates or times.

C. It is unlawful for a packer to enter into a contract to purchase cattle for slaughter using a formula or grid pricing mechanism if the packer fails to negotiate a base price prior to the cattle being committed or scheduled for slaughter.

D. Any contract to purchase cattle for slaughter that is in violation of subsection A or B of this section is voidable by the seller. The seller may bring an action against any packer to recover damages sustained by reason of such violation.

E. Any packer acting in violation of this section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) per violation.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.8 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Beginning February 15, 2001, a packer shall, two (2) times each day during which cattle are purchased, report to the State Department of Agriculture and to the United States Department of Agriculture, agricultural market service livestock news branch, all cattle that are purchased in the cash, spot, or direct market since the last report. A packer shall, one time each day during which cattle are purchased, report to the Department and to the United State Department of Agriculture, agricultural market service livestock news branch, all cattle that are purchased by contract that day. Such reports shall be completed on forms prepared by the Department, in consultation with the agricultural market service livestock news branch, and shall include:

1. The cash price paid and the number of cattle purchased at price intervals representative of the day's trade;

2. Quality characteristics, including sex of the cattle, estimated percentage of the meat which will be graded choice or better upon inspection based upon the United States Department of Agriculture official grades, and estimated live weight, as well as premium and discount factors that may apply to these characteristics;

3. Base price and premium and discount factors for cattle purchased using a formula or grid pricing mechanism; and

4. The delivery month, volume, and applicable basis level for all cattle purchased under basis contract.

The report shall not include information regarding the identity of the seller.

B. Pursuant to this section the Department shall make a report of information received available to the public in a timely manner to permit the use of the information while it is still relevant.

SECTION 10. A. The failure of a packer to report information to the State Department of Agriculture pursuant to Section 9 of this act is punishable by a civil penalty not to exceed One Thousand Dollars (\$1,000.00) for each day that a complete report is not made available to the State Department of Agriculture. The intentional reporting of false information by a packer in the report to the Department is a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) per violation.

B. The Attorney General shall enforce the provisions of Sections 8 through 10 of this act, and the State Commissioner of Agriculture shall refer any violations of these provisions to the Attorney General. The Attorney General or any person injured by a violation of these provisions may bring an action in district court to restrain a packer from violating these provisions.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.9 of Title 2, unless there is created a duplication in numbering, reads as follows:

The State Department of Agriculture shall assess a fee not to exceed two cents per animal unit reported under Sections 7 and 9 of this act as direct-purchased or contract-purchased. Such fee shall be deposited in the Competitive Livestock Market Revolving Fund created in Section 12 of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.10 of Title 2, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the State Department of Agriculture to be designated the "Competitive Livestock Market Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of expense assessments and fees paid by packers. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Agriculture to

defray the investigative, enforcement, and reporting expenses. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.11 of Title 2, unless there is created a duplication in numbering, reads as follows:

The State Department of Agriculture shall adopt and promulgate rules to carry out the provisions of Sections 4 through 12 of this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.12 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Attorney General, for the enforcement of the Competitive Livestock Markets Act, shall have the authority to subpoena witnesses, compel their attendance, examine them under oath, and require the production of documents, records, or tangible things deemed relevant to the proper performance of the witnesses' duties.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-141.13 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Attorney General shall have the power and authority to enter into reciprocal agreements with the duly authorized representatives of other jurisdictions, federal or state, for the exchange of information on a cooperative basis which may assist in the proper administration of the Competitive Livestock Markets Act.

SECTION 16. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.