

State of South Dakota

SEVENTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 1999

291C0676

HOUSE BILL NO. 1234

Introduced by: Representatives Nachtigal, Apa, Broderick, Brown (Jarvis), Burg, Cerny, Chicoine, Crisp, Duenwald, Fischer-Clemens, Hagen, Haley, Hanson, Jaspers, Juhnke, Kazmerzak, Klaudt, Koehn, Koetzle, Kooistra, Lintz, Lockner, Lucas, Putnam, Volesky, Waltman, Weber, Wetz, and Wilson and Senators Kloucek, Bogue, Dennert, Flowers, Hutmacher, Lange, Olson, Reedy, Shoener, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to regulate certain livestock packer transactions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in the Act mean:

4 (1) "Livestock," live cattle, swine, or sheep;

5 (2) "Packer," any person who is engaged in the business of slaughtering livestock or

6 receiving, purchasing, or soliciting livestock for slaughtering, the meat products of

7 which are directly or indirectly to be offered for resale or for public consumption.

8 Packer includes any agent of the packer engaged in buying or soliciting livestock for

9 slaughter on behalf of a packer. Packer does not include a cold storage plant, a frozen

10 food locker plant, a livestock market, or livestock auction agency.

11 Section 2. A packer purchasing or soliciting livestock for slaughter in this state may not

12 discriminate in prices paid or offered to be paid to sellers of that livestock. This section does not

13 apply to the sale and purchase of livestock if the following requirements are met:

14 (1) The price differential is based on the quality of the livestock, if the packer purchases

1 or solicits the livestock based upon a payment method specifying prices paid for
2 criteria relating to carcass merit; actual and quantifiable costs related to transporting
3 and acquiring the livestock by the packer; or an agreement for the delivery of
4 livestock at a specified date or time; and

5 (2) After making a differential payment to a seller, the packer publishes information
6 relating to the differential pricing, including the payment method for carcass merit,
7 transportation and acquisition pricing, and an offer to enter into an agreement for the
8 delivery of livestock at a specified date or time according to the same terms and
9 conditions offered to other sellers.

10 Section 3. A packer shall provide all sellers with the same terms and conditions offered to
11 a seller who receives a differential price based on any of the criteria described in section 2 of this
12 Act.

13 Section 4. A packer shall, at the beginning of each day in which livestock are purchased, post
14 in a conspicuous place at the point of delivery, all prices for livestock to be paid that day.

15 Section 5. Any agreement made by a packer in violation of this Act is voidable. Any packer
16 acting in violation of this section is guilty of a fraudulent practice.

17 Section 6. The attorney general shall enforce the provisions of this Act and the Department
18 of Agriculture shall refer any violations of these provisions to the attorney general. The attorney
19 general or any person injured by a violation of these provisions may bring an action in circuit
20 court to restrain a packer from violating these provisions. A seller who receives a discriminatory
21 price or who is offered only a discriminatory price for livestock based upon a violation of these
22 provisions by a packer has a civil cause of action against the packer and, if successful, shall be
23 awarded treble damages.

24 Section 7. Any packer shall make available for publication and to the Department of
25 Agriculture, a daily report setting forth information regarding prices paid for livestock, under

1 each contract in force, in which the packer and a South Dakota resident are parties for the
2 purchase of the livestock by the packer, and which sets a date for delivery more than twenty days
3 after the making of the contract.

4 The reports shall be completed on forms prepared by the department for comparison with
5 cash market prices for livestock according to procedures required by the department in rules
6 promulgated pursuant to chapter 1-26. The report may not include information regarding the
7 identity of a seller.

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