

116TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Agricultural Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers.

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IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To amend the Agricultural Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SPOT MARKET PURCHASES OF LIVESTOCK BY**  
4 **PACKERS.**

5 Chapter 5 of subtitle B of the Agricultural Marketing  
6 Act of 1946 (7 U.S.C. 1636 et seq.) is amended—

7 (1) by redesignating section 260 (7 U.S.C.  
8 1636i) as section 261; and

1 (2) by inserting after section 259 the following:

2 **“SEC. 260. SPOT MARKET PURCHASES OF LIVESTOCK BY**  
3 **PACKERS.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) COVERED PACKER.—

6 “(A) IN GENERAL.—The term ‘covered  
7 packer’ means a packer that is required under  
8 this subtitle to report to the Secretary each re-  
9 porting day information on the price and quan-  
10 tity of livestock purchased by the packer.

11 “(B) EXCLUSION.—The term ‘covered  
12 packer’ does not include a packer that owns  
13 only 1 livestock processing plant.

14 “(2) NONAFFILIATED PRODUCER.—The term  
15 ‘nonaffiliated producer’ means a producer of live-  
16 stock—

17 “(A) that sells livestock to a packer;

18 “(B) that has less than 1 percent equity  
19 interest in the packer, which packer has less  
20 than 1 percent equity interest in the producer;

21 “(C) that has no officers, directors, em-  
22 ployees, or owners that are officers, directors,  
23 employees, or owners of the packer;

24 “(D) that has no fiduciary responsibility to  
25 the packer; and

1           “(E) in which the packer has no equity in-  
2           terest.

3           “(3) SPOT MARKET SALE.—

4           “(A) IN GENERAL.—The term ‘spot mar-  
5           ket sale’ means a purchase and sale of livestock  
6           by a packer from a producer—

7                   “(i) under an agreement that specifies  
8                   a firm base price that may be equated with  
9                   a fixed dollar amount on the date the  
10                  agreement is entered into;

11                   “(ii) under which the livestock are  
12                   slaughtered not more than 14 days after  
13                   the date on which the agreement is entered  
14                   into; and

15                   “(iii) under circumstances in which a  
16                   reasonable competitive bidding opportunity  
17                   exists on the date on which the agreement  
18                   is entered into.

19           “(B) REASONABLE COMPETITIVE BIDDING  
20           OPPORTUNITY.—For the purposes of subpara-  
21           graph (A)(iii), circumstances in which a reason-  
22           able competitive bidding opportunity shall be  
23           considered to exist if—

1                   “(i) no written or oral agreement pre-  
2                   cludes the producer from soliciting or re-  
3                   ceiving bids from other packers; and

4                   “(ii) no circumstance, custom, or  
5                   practice exists that—

6                   “(I) establishes the existence of  
7                   an implied contract (as determined in  
8                   accordance with the Uniform Com-  
9                   mercial Code); and

10                  “(II) precludes the producer from  
11                  soliciting or receiving bids from other  
12                  packers.

13                  “(b) GENERAL RULE.—Of the quantity of livestock  
14                  that is slaughtered by a covered packer during each re-  
15                  porting day in each plant, the covered packer shall slaugh-  
16                  ter not less than 50 percent of the quantity through spot  
17                  market sales from nonaffiliated producers.

18                  “(c) NONPREEMPTION.—Notwithstanding section  
19                  259, this section does not preempt any requirement of a  
20                  State or political subdivision of a State that requires a  
21                  covered packer to purchase on the spot market a greater  
22                  percentage of the livestock purchased by the covered pack-  
23                  er than is required under this section.

1       “(d) RELATIONSHIP TO OTHER PROVISIONS.—Noth-  
2 ing in this section affects the interpretation of any other  
3 provision of this Act, including section 202.”.