

SENATE BILL No. 223

By Committee on Agriculture

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AN ACT concerning livestock; enacting the competitive livestock markets act; prohibiting certain acts and prescribing certain penalties.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The provisions of this act shall be known and may be cited as the competitive livestock markets act.

Sec. 2. As used in sections 1 through 6, and amendments thereto:

(a) "Packer" means any person engaged in the business of:

(1) Buying more than 5,000 animal units of livestock per year in commerce for purpose of slaughter;

(2) Manufacturing or preparing meats or meat food products for sale or shipment in commerce; or

(3) marketing meats, meat food products or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce.

(b) "Animal units" means the same as prescribed by K.S.A. 65-171d, and amendments thereto.

Sec. 3. It shall be unlawful for any packer with respect to livestock, meats, meat products, livestock products in unmanufactured form to:

(a) Engage in or use any unfair, unjustly discriminatory or deceptive practice or device;

(b) make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject any particular person or locality to any unreasonable prejudice or disadvantage in any respect whatsoever;

(c) sell or otherwise transfer to or for any other packer or buy or otherwise receive from or for any other packer any article for the purpose or with the effect of apportioning the supply between any such persons if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly;

(d) sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of buying, selling or dealing in any article, or of restraining commerce;

1 (e) engage in any course of business or do any act for the purpose or
2 with the effect of manipulating or controlling prices, or of creating a
3 monopoly in the acquisition of buying, selling, dealing in any article or of
4 restraining commerce;

5 (f) conspire, combine, agree or arrange with any other person to ap-
6 portion territory for carrying on business, to apportion purchases or sales
7 of any article or to manipulate or control prices; or

8 (g) conspire, combine, agree or arrange with any other person to do,
9 or aid or abet the doing of any act made unlawful by subsections (a), (b),
10 (c), (d) or (e).

11 Sec. 4. (a) The attorney general or any county or district attorney
12 may bring an action:

13 (1) To obtain a declaratory judgment that an act or practice violates
14 this act;

15 (2) to enjoin, or to obtain a restraining order against a packer who
16 has violated, is violating or is otherwise likely to violate this act; or

17 (3) to recover damages on behalf of a person by reason of violations
18 of this act; and

19 (4) to recover reasonable expenses and investigation fees.

20 (b) In lieu of instigating or continuing an action or proceeding, the
21 attorney general may accept a consent judgment with respect to any act
22 or practice declared to be a violation of this act. Such a consent judgment
23 shall provide for the discontinuance by the packer of any act or practice
24 declared to be a violation of this act, and it may include a stipulation for
25 the payment by such packer of reasonable expenses and investigation fees
26 incurred by the attorney general. Any consent judgment entered into
27 pursuant to this section shall not be deemed to admit the violation, unless
28 it does so by its terms. Before any consent judgment entered into pur-
29 suant to this section shall be effective, it must be approved by the district
30 court and an entry made thereof in the manner required for making an
31 entry of judgment. Once such approval is received, any breach of the
32 conditions of such consent judgment shall be treated as a violation of a
33 court order, and shall be subject to all the penalties provided by law
34 therefor.

35 (c) In any action brought by the attorney general or the county or
36 district attorney, the court may, without requiring bond of the attorney
37 general or the county or district attorney:

38 (1) Make such orders or judgments as may be necessary to prevent
39 the use or employment by a packer of any practices declared to be a
40 violation of this act;

41 (2) make such orders or judgments as may be necessary to compen-
42 sate any person for damages sustained;

43 (3) revoke any license or certificate authorizing that packer to engage

1 in business in this state;

2 (4) issue a temporary restraining order or enjoin any packer from
3 engaging in business in this state;

4 (5) award reasonable expenses and investigation fees, civil penalties
5 and costs; and

6 (6) grant other appropriate relief.

7 Sec. 5. (a) Whether a person seeks or is entitled to damages or oth-
8 erwise has an adequate remedy at law or in equity, a person aggrieved by
9 an alleged violation of this act may bring an action to:

10 (1) Obtain a declaratory judgment that an act or practice violates this
11 act; or

12 (2) enjoin or obtain a restraining order against a packer who has vi-
13 olated, is violating or is likely to violate this act.

14 (b) A person who suffers a loss as a result of a violation of this act
15 may bring an individual or a class action for the damages caused by any
16 violation of this act together with reasonable attorney fees.

17 Sec. 6. Every packer shall keep such accounts, records and memo-
18 randa to fully and correctly disclose all transactions involved in such per-
19 son's business, including the true ownership of such business by stock-
20 holders or otherwise. Whenever the attorney general finds that the
21 accounts, records and memoranda of such person do not fully and cor-
22 rectly disclose all transactions involved in such person's business, the at-
23 torney general may prescribe the manner and form in which such ac-
24 counts, records and memoranda shall be kept. Any such person who fails
25 to keep such accounts, records and memoranda in the manner and form
26 prescribed or approved by the attorney general is guilty of a nonperson
27 misdemeanor and shall be subject to a fine of not more than \$5,000 or
28 imprisoned not more than three years, or both.

29 Sec. 7. The attorney general shall be responsible for enforcement of
30 this act and shall promulgate such rules and regulations and make orders
31 as may be necessary to carry out the provisions of this act. The attorney
32 general, to carry out the provisions of this act, may cooperate with any
33 state department, agency or any local municipality and any department
34 or agency of the federal government and state, territory, district or pos-
35 session or department or agency or political subdivision thereof or any
36 person.

37 Sec. 8. This act shall take effect and be in force from and after its
38 publication in the statute book.

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