

E AND R AMENDMENTS TO LB 176

Introduced by Hansen, 26, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 54-2602, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 54-2602 For purposes of the Competitive Livestock Markets Act:

6 (1) Animal unit means one head of cattle, three calves under four
7 hundred fifty pounds, or five swine;

8 (2) Contract swine operation means a livestock operation in which
9 swine owned or controlled by a packer are produced according to an oral
10 or written agreement that does not contain a confidentiality clause and
11 that is agreed to by the packer and a person other than the packer who
12 owns, leases, or holds a legal interest in the livestock operation;

13 (3 2) Department means the Department of Agriculture;

14 (4 3) Director means the Director of Agriculture or his or her
15 designee;

16 (5 4) Livestock means live cattle or swine;

17 (6) Livestock operation means a location, including buildings, land,
18 lots, yard corrals, and improvements, adapted to and utilized for the
19 purpose of feeding, keeping, or otherwise providing for the care and
20 maintenance of livestock;

21 (7 5) Packer means a person, or agent of such person, engaged in the
22 business of slaughtering livestock in Nebraska in excess of one hundred
23 fifty thousand animal units per year; and

24 (8 6) Person includes individuals, firms, associations, limited
25 liability companies, and corporations and officers or limited liability
26 company members thereof.

27 Sec. 2. Section 54-2604, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 54-2604 (1) Except as provided in subsection (2) of this section, a
3 packer shall not:

4 (a) Directly or indirectly own, control, or operate a livestock
5 operation in this state; or

6 (b) Directly or indirectly be engaged in the ownership, keeping, or
7 feeding of livestock, other than temporary ownership, keeping, and
8 feeding not to exceed fourteen days which is necessary and incidental to,
9 and immediately prior to, the process of slaughter.

10 (2) Subdivision (1)(b) of this section does not apply to the
11 ownership, keeping, or feeding of swine by a packer at one or more
12 contract swine operations in this state if the packer does not own, keep,
13 or feed swine in this state except for the purpose of the slaughtering of
14 swine or the manufacturing or preparation of carcasses of swine or goods
15 originating from the carcasses in one or more processing facilities owned
16 or controlled by the packer.

17 (3) For purposes of this section, indirectly own, control, or
18 operate a livestock operation and indirectly be engaged in the ownership,
19 keeping, or feeding of livestock includes:

20 (a) Receiving the net revenue or a share of the net revenue derived
21 from a livestock operation or from a person who contracts for the care
22 and feeding of livestock in this state, unless the packer is not involved
23 in the management of the livestock operation;

24 (b) Assuming a morbidity or mortality production risk if the
25 livestock are fed or otherwise maintained as part of a livestock
26 operation in this state, unless the packer is not involved in the
27 management of the livestock operation; and

28 (c) Loaning money for or guaranteeing, acting as a surety for, or
29 otherwise financing a livestock operation in this state or a person who
30 contracts for the care and feeding of livestock in this state. For
31 purposes of this subdivision, loaning money for or guaranteeing, acting

1 as a surety for, or otherwise financing a livestock operation does not
2 include executing a contract for the purchase of livestock by a packer,
3 including, but not limited to, forward contracts, marketing agreements,
4 long-term arrangements, formula arrangements, other noncash sales
5 arrangements, contracts that contain a ledger balance unsecured by
6 collateral of the debtor or other price-risk-sharing arrangements, or
7 providing an open account or loan unsecured by collateral of the debtor
8 or a ledger balance or loan secured by collateral of the debtor so long
9 as the amount due from the debtor does not exceed one million dollars.

10 ~~After May 27, 1999, it is unlawful for a packer to directly or~~
11 ~~indirectly be engaged in the ownership, keeping, or feeding of livestock~~
12 ~~for the production of livestock or livestock products, other than~~
13 ~~temporary ownership, keeping, and feeding, not to exceed five days,~~
14 ~~necessary and incidental to the process of slaughter.~~

15 Sec. 3. Section 54-2627.01, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 54-2627.01 (1) Sections 54-2607 to 54-2627 are preempted by the
18 federal Livestock Mandatory Reporting Act of 1999, 7 U.S.C. 1635 to
19 1636h, when such federal act is in effect.

20 (2) The Legislature finds that the mandatory reporting of price and
21 other terms in negotiated or contract procurement of livestock that has
22 been in place under the federal Livestock Mandatory Reporting Act of 1999
23 is an important reform of livestock markets that contributes to greater
24 market transparency, enhances the ability of livestock sellers to more
25 competently and confidently market livestock, and lessens the existence
26 of conditions under which market price manipulation and unfair preference
27 or advantage in packer procurement practices can occur. It is a purpose
28 of the Competitive Livestock Markets Act to provide for the continuation
29 of mandatory price reporting for the benefit of Nebraska producers and
30 protection of the integrity of livestock markets in Nebraska in the event
31 of termination of the federal Livestock Mandatory Reporting Act of 1999

1 and its preemption of similar state price reporting laws as well as to
2 provide for an orderly implementation of the state price reporting system
3 authorized by the Competitive Livestock Markets Act, should Congress fail
4 to reauthorize the federal Livestock Mandatory Reporting Act of 1999.

5 (3 2)(a) If Congress does not reauthorize the federal Livestock
6 Mandatory Reporting Act of 1999 before December 1, 2006, the director
7 shall, on December 1, 2006, or as soon before or after as practicable,
8 prepare a budget and an appropriation request from the General Fund, from
9 the Competitive Livestock Markets Cash Fund, or from other cash funds
10 under the control of the director, for submission to the Legislature in
11 an amount sufficient to enable the department to carry out its duties
12 under sections 54-2607 to 54-2627, and such sections shall become
13 applicable on October 1, 2007.

14 (b) If, on or after December 1, 2006, Congress does not reauthorize
15 the federal Livestock Mandatory Reporting Act of 1999, the director shall
16 prepare such budget and appropriation request on or before a date that is
17 twelve calendar months after the date such federal act expires or is
18 terminated, and sections 54-2607 to 54-2627 shall become applicable on
19 the first day of the calendar quarter that is eighteen months after the
20 date such sections are not preempted by the federal act. No General Funds
21 shall be appropriated for implementation of sections 54-2607 to 54-2627
22 after the date of commencement provided for in this section of reporting
23 of price and other data regarding livestock transactions pursuant to
24 sections 54-2613 and 54-2623. It is the intent of the Legislature that
25 any General Funds appropriated for purposes of this section shall be
26 reimbursed to the General Fund.

27 Sec. 4. Original sections 54-2602, 54-2604, and 54-2627.01, Reissue
28 Revised Statutes of Nebraska, are repealed.

29 Sec. 5. The following section is outright repealed: Section
30 54-2603, Reissue Revised Statutes of Nebraska.