

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 832

Introduced by Agriculture Committee: Dierks, 40, Chairperson;
Chambers, 11; Cudaback, 36; Hilgert, 7; Robak, 22;
Schellpeper, 18; Schrock, 38; Vrtiska, 1; and
Connealy, 16; Jones, 43; Schmitt, 41

Read first time January 20, 1999

Committee: Agriculture

A BILL

- 1 FOR AN ACT relating to livestock; to adopt the Livestock Contract
- 2 Sale Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as
2 the Livestock Contract Sale Act.

3 Sec. 2. For purposes of the Livestock Contract Sale Act:

4 (1) Animal unit means one head of cattle, three calves
5 under four hundred fifty pounds, five hogs, or ten sheep or lambs;

6 (2) Contract purchase of livestock for slaughter means
7 the purchase of livestock for slaughter, by any means other than
8 competitive bidding, which does not specify a delivery date or
9 specifies a delivery date or dates more than seven days after the
10 purchase agreement is entered into;

11 (3) Director means the Director of Agriculture;

12 (4) Person includes individuals, firms, associations,
13 limited liability companies, or corporations or employees,
14 officers, or limited liability company members thereof;

15 (5) Purchase of livestock for slaughter means the
16 purchase of livestock for immediate use in manufacturing or
17 preparing meat or meat food products;

18 (6) Purchaser means any person engaged in the purchase of
19 slaughter livestock in excess of five hundred animal units per year
20 based upon two hundred sixty slaughter days; and

21 (7) Slaughter livestock means cattle, sheep, and swine
22 produced or fed in this state and destined for immediate slaughter.

23 Sec. 3. The Legislature finds that the concentration of
24 market share among purchasers of livestock for slaughter creates an
25 imbalance in market power between purchasers and producers of
26 livestock in Nebraska. Certain livestock purchase practices, such
27 as forward contracting, can be detrimental to the interests of
28 producers and the livestock industry in general by undermining the

1 system of price discovery whereby livestock prices are determined
2 in an open and competitive marketplace, denying producers critical
3 market information needed to make informed management decisions,
4 eroding competition among livestock purchasers, and increasing
5 livestock purchasers' leverage in determining prices.

6 Sec. 4. (1) A purchaser shall not enter into a contract
7 purchase of livestock for slaughter if the date of delivery is to
8 be determined by the purchaser at a later time. A contract
9 purchase of livestock for slaughter shall be by written or oral
10 agreement and shall specify a calendar day for delivery of the
11 livestock or specify the month or delivery and allow the seller to
12 set the week for delivery within such month.

13 (2) The director may, after giving reasonable notice and
14 an opportunity for a hearing under this section, impose a fine of
15 one thousand dollars for the first violation and five thousand
16 dollars for each subsequent violation. The director shall remit
17 such fines to the State Treasurer for credit to the permanent
18 school fund. In addition to the fine, the director shall remit
19 such costs to the State Treasurer for credit to the Livestock
20 Contract Sale Fund. Imposition of any fine and payment of costs
21 under this section may be appealed pursuant to the Administrative
22 Procedure Act. If a person fails to pay the fine or costs imposed
23 pursuant to this section, a lien in the amount of the fine and
24 costs shall be imposed upon all of the assets and property of such
25 person in this state and may be recovered by suit by the director.

26 Sec. 5. (1) To obtain compliance with the Livestock
27 Contract Sale Act, the director may apply for a restraining order,
28 a temporary or permanent injunction, or a mandatory injunction

1 against any person who has violated, is violating, or is
2 threatening to violate the act or the rules and regulations adopted
3 and promulgated pursuant to the act. The district court of the
4 county where the violation has occurred, is occurring, or is about
5 to occur has jurisdiction to grant such relief upon good cause
6 shown. Relief may be granted notwithstanding the existence of any
7 other remedy at law and shall be granted without bond.

8 (2) It is the duty of the Attorney General or the county
9 attorney of the county in which any violation of the act or of
10 rules and regulations occurred, is occurring, or is about to occur,
11 when notified by the director of such violation or threatened
12 violation, to pursue appropriate proceedings without delay pursuant
13 to this section, section 89-1,101, or both. Before the director
14 reports a violation, such person shall be given an opportunity to
15 present his or her views to the director.

16 Sec. 6. (1) Within three business days following the
17 date a contract purchase agreement was entered into, purchasers
18 shall report the contract purchase of livestock for slaughter to
19 the director and remit a fee of one cent per animal unit reported
20 as purchased by contract. Such report shall state the number of
21 animal units purchased, the delivery date or range of dates, the
22 average price paid per animal and any differential from the average
23 price, and the destination by processing plant of the livestock
24 purchased by such contracts. The reports required by this section
25 may be a cumulative summary of more than one contract purchase and
26 shall not identify sellers. Fees assessed under this section may
27 be paid cumulatively on a monthly basis.

28 (2) Purchasers of slaughter livestock shall keep accurate

1 records of all transactions conducted in the ordinary course of
2 their business. Such records shall be available for examination
3 and audit by the director or his or her duly authorized agent. The
4 director or his or her agent shall not divulge or make known in any
5 matter, except in hearings before a court of law, any facts or
6 information regarding the purchaser which may be obtained by reason
7 of such examination or audit of the records and transactions of the
8 purchaser.

9 (3) The director shall publish weekly cumulative
10 summaries of contract purchases of livestock for slaughter reported
11 which shall be available to the public by subscription or upon
12 request. The director may charge a subscription or request fee,
13 not to exceed actual costs, for the publication and shall remit the
14 proceeds to the State Treasurer for credit to the Livestock
15 Contract Sale Fund.

16 Sec. 7. The director may assess a penalty for failure to
17 report contract purchases of livestock or for late payment of
18 reporting fees of twenty-five percent per month of the reporting
19 fees due for each month any such fees are delinquent not to exceed
20 one hundred percent of such fees. Such penalty is in addition to
21 the fees due. The director's decision regarding whether penalties
22 will be imposed shall be based upon the existence and extent of any
23 mitigating circumstances that have resulted in the late payment of
24 such fees. The reporting fees required to be paid by purchasers by
25 section 6 of this act and any penalties for late payment of such
26 fees shall constitute a lien on livestock in the possession of the
27 purchaser until such fees, penalties, and reimbursements are paid.
28 The director may sue for such fees, penalties, and reimbursements

1 and may seek to foreclose on any lien in the name of the state.
2 The Attorney General's office shall, upon the request of the
3 director, take appropriate action to establish and foreclose on any
4 such lien.

5 Sec. 8. The Livestock Contract Sale Fund is created.
6 The fund shall be administered by the Department of Agriculture.
7 The fund shall consist of investigative and enforcement expense
8 assessments against violators of section 4 of this act and
9 subscription fees and fees paid by contract purchasers of livestock
10 for slaughter pursuant to section 6 of this act. The money in the
11 fund shall be used to defray the investigative, enforcement, and
12 reporting expenses of the department in administering the Livestock
13 Contract Sale Act. Any money in the fund available for investment
14 shall be invested by the state investment officer pursuant to the
15 Nebraska Capital Expansion Act and the Nebraska State Funds
16 Investment Act.

17 Sec. 9. The Department of Agriculture shall adopt and
18 promulgate rules and regulations to carry out the Livestock
19 Contract Sale Act.