

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 176

Introduced by Schilz, 47.

Read first time January 12, 2015

Committee: Agriculture

- 1 A BILL FOR AN ACT relating to the Competitive Livestock Markets Act; to
- 2 amend sections 54-2602, 54-2604, and 54-2627.01, Reissue Revised
- 3 Statutes of Nebraska; to define terms; to change provisions relating
- 4 to prohibited acts; to change and eliminate provisions relating to
- 5 legislative findings; to repeal the original sections; and to
- 6 outright repeal section 54-2603, Reissue Revised Statutes of
- 7 Nebraska.
- 8 Be it enacted by the people of the State of Nebraska,

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

3 54-2602 For purposes of the Competitive Livestock Markets Act:

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

6 (2) Contract swine operation means a livestock operation in which
7 swine owned or controlled by a packer are produced according to an oral
8 or written agreement between the packer and a person other than the
9 packer who owns, leases, or holds a legal interest in the livestock
10 operation;

11 (3 2) Department means the Department of Agriculture;

12 (4 3) Director means the Director of Agriculture or his or her
13 designee;

14 (5 4) Livestock means live cattle or swine;

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

19 (7 5) Packer means a person, or agent of such person, engaged in the
20 business of slaughtering livestock in Nebraska in excess of one hundred
21 fifty thousand animal units per year; and

22 (8 6) Person includes individuals, firms, associations, limited
23 liability companies, and corporations and officers or limited liability
24 company members thereof.

25 Sec. 2. Section 54-2604, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 54-2604 (1) Except as provided in subsection (2) of this section, a
28 packer shall not:

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

31 (b) Directly or indirectly be engaged in the ownership, keeping, or

1 feeding of livestock, other than temporary ownership, keeping, and
2 feeding not to exceed five days which is necessary and incidental to, and
3 immediately prior to, the process of slaughter.

4 (2) Subsection (1) of this section does not apply to the ownership,
5 keeping, or feeding of swine by a packer at one or more contract swine
6 operations in this state if the packer does not own, keep, or feed swine
7 in this state except for the purpose of the slaughtering of swine or the
8 manufacturing or preparation of carcasses of swine or goods originating
9 from the carcasses in one or more processing facilities owned or
10 controlled by the packer.

11 (3) For purposes of this section, indirectly own, control, or
12 operate a livestock operation includes:

13 (a) Receiving the net revenue or a share of the net revenue derived
14 from a livestock operation or from a person who contracts for the care
15 and feeding of livestock in this state;

16 (b) Obtaining a benefit of production associated with feeding or
17 otherwise maintaining livestock or assuming a morbidity or mortality
18 production risk if the livestock are fed or otherwise maintained as part
19 of a livestock operation in this state;

20 (c) Loaning money or guaranteeing, acting as a surety for, or
21 otherwise financing a livestock operation in this state or a person who
22 contracts for the care and feeding of livestock in this state. For
23 purposes of this subdivision, financing does not include executing a
24 contract for the purchase of livestock by a packer, including, but not
25 limited to, a contract that contains an unsecured ledger balance or other
26 price risk sharing arrangement, or providing an unsecured open account or
27 unsecured loan if the unsecured open account or unsecured loan is used
28 for the purchase of feed for the livestock and the outstanding amount due
29 by the debtor does not exceed two hundred fifty thousand dollars for a
30 single livestock operation.

31 After May 27, 1999, it is unlawful for a packer to directly or

1 ~~indirectly be engaged in the ownership, keeping, or feeding of livestock~~
2 ~~for the production of livestock or livestock products, other than~~
3 ~~temporary ownership, keeping, and feeding, not to exceed five days,~~
4 ~~necessary and incidental to the process of slaughter.~~

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

7 54-2627.01 (1) Sections 54-2607 to 54-2627 are preempted by the
8 federal Livestock Mandatory Reporting Act of 1999, 7 U.S.C. 1635 to
9 1636h, when such federal act is in effect.

10 (2) The Legislature finds that the mandatory reporting of price and
11 other terms in negotiated or contract procurement of livestock that has
12 been in place under the federal Livestock Mandatory Reporting Act of 1999
13 is an important reform of livestock markets that contributes to greater
14 market transparency, enhances the ability of livestock sellers to more
15 competently and confidently market livestock, and lessens the existence
16 of conditions under which market price manipulation and unfair preference
17 or advantage in packer procurement practices can occur. It is a purpose
18 of the Competitive Livestock Markets act to provide for the continuation
19 of mandatory price reporting for the benefit of Nebraska producers and
20 protection of the integrity of livestock markets in Nebraska in the event
21 of termination of the federal Livestock Mandatory Reporting Act of 1999
22 and its preemption of similar state price reporting laws as well as to
23 provide for an orderly implementation of the state price reporting system
24 authorized by the Competitive Livestock Markets Act, should Congress fail
25 to reauthorize the federal Livestock Mandatory Reporting Act of 1999.

26 (3 2)(a) If Congress does not reauthorize the federal Livestock
27 Mandatory Reporting Act of 1999 before December 1, 2006, the director
28 shall, on December 1, 2006, or as soon before or after as practicable,
29 prepare a budget and an appropriation request from the General Fund, from
30 the Competitive Livestock Markets Cash Fund, or from other cash funds
31 under the control of the director, for submission to the Legislature in

1 an amount sufficient to enable the department to carry out its duties
2 under sections 54-2607 to 54-2627, and such sections shall become
3 applicable on October 1, 2007.

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

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

19 Sec. 5. The following section is outright repealed: Section
20 54-2603, Reissue Revised Statutes of Nebraska.