

110th CONGRESS
1st Session
S. 1017

To amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts.

IN THE SENATE OF THE UNITED STATES

March 28, 2007

Mr. MCCONNELL (for Mr. ENZI) (for himself, Mr. DORGAN, Mr. GRASSLEY, Mr. THOMAS, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Captive Supply Reform Act'.

SEC. 2. LIMITATION ON USE OF FORWARD CONTRACTS.

(a) In General- Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended--

- (1) by striking `to:' and inserting `to--';
- (2) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4), (5), (7), and (8), respectively, and indenting appropriately;
- (3) in paragraph (7) (as redesignated by paragraph (2)), by designating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;
- (4) in paragraph (8) (as redesignated by paragraph (2)), by striking `subdivision (a), (b), (c), (d), or (e)' and inserting `paragraph (1), (2), (3), (4), (5), or (6)';
- (5) in each of paragraphs (1), (2), (3), (4), (5), (7), and (8) (as redesignated by paragraph (2)), by striking the first capital letter of the first word in the paragraph and inserting the same letter in the lower case;

(6) in each of paragraphs (1) through (5) (as redesignated by paragraph (2)), by striking `or' at the end; and
(7) by inserting after paragraph (5) (as redesignated by paragraph (2)) the following:

- `(6) use, in effectuating any sale of livestock, a forward contract that--
 - `(A) does not contain a firm base price that may be equated to a fixed dollar amount on the day on which the forward contract is entered into;
 - `(B) is not offered for bid in an open, public manner under which--
 - `(i) buyers and sellers have the opportunity to participate in the bid;
 - `(ii) more than 1 blind bid is solicited; and
 - `(iii) buyers and sellers may witness bids that are made and accepted;
 - `(C) is based on a formula price; or
 - `(D) provides for the sale of livestock in a quantity in excess of--
 - `(i) in the case of cattle, 40 cattle;
 - `(ii) in the case of swine, 30 swine; and
 - `(iii) in the case of other types of livestock, a comparable quantity of the type of livestock determined by the Secretary.'

(b) Definitions- Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)) is amended by adding at the end the following:

`(15) FORMULA PRICE-

`(A) IN GENERAL- The term `formula price' means any price term that establishes a base from which a purchase price is calculated on the basis of a price that will not be determined or reported until a date after the day the forward price is established.

`(B) EXCLUSION- The term `formula price' does not include--

- `(i) any price term that establishes a base from which a purchase price is calculated on the basis of a futures market price; or
- `(ii) any adjustment to the base for quality, grade, or other factors relating to the value of livestock or livestock products that are readily verifiable market factors and are outside the control of the packer.

`(16) FORWARD CONTRACT- The term `forward contract' means an oral or written contract for the purchase of livestock that provides for the delivery of the livestock to a packer at a date that is more than 7 days after the date on which the contract is entered into, without regard to whether the contract is for--

- `(A) a specified lot of livestock; or
- `(B) a specified number of livestock over a certain period of time.'