

FIRST EXTRAORDINARY SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 4
91ST GENERAL ASSEMBLY

Reported from the Committee on Price Discrimination, September 6, 2001, with recommendation that the House Committee Substitute for House Bill No. 4 Do Pass.

TED WEDEL, Chief Clerk

2375L.03C

AN ACT

To repeal sections 277.203, 277.212, and 277.215, RSMo, and to enact in lieu thereof five new sections relating to livestock marketing, with an emergency clause and an expiration date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 277.203, 277.212, and 277.215, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 277.201, 277.202, 277.204, 277.212, and 277.215, to read as follows:

277.201. Sections 277.200 to 277.215 shall be enforced in a manner which is consistent with the purposes and intent of the Packers and Stockyards Act (7 U.S.C.A. §181 et seq.).

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

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

(2) 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 undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(3) 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; or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 **(4) Sell or otherwise transfer to or for any other person, or buy or otherwise receive**
14 **from or for any other person, any article for the purpose or with the effect of manipulating**
15 **or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or**
16 **dealing in, any article, or of restraining commerce; or**

17 **(5) Engage in any course of business or do any act for the purpose or with the effect**
18 **of manipulating or controlling prices, or of creating a monopoly in the acquisition of,**
19 **buying, selling, or dealing in, any article, or of restraining commerce; or**

20 **(6) Conspire, combine, agree, or arrange, with any other person to apportion**
21 **territory for carrying on business, or to apportion purchases or sales of any article, or to**
22 **manipulate or control prices; or**

23 **(7) Conspire, combine, agree or arrange with any other person to do, or aid or abet**
24 **the doing of, any act made unlawful by subdivision (a), (b), (c), (d) or (e) of 7 U.S.C.A.**
25 **§192.**

277.204. 1. A packer purchasing livestock in this state for slaughter shall enter into
2 **a written contract with the seller of that livestock. The department of agriculture in**
3 **conjunction with the office of the attorney general shall approve the form of such**
4 **contracts.**

5 **2. The packer shall provide a copy of the written contract to the attorney general**
6 **within one week of the attorney general's request for a copy of such contract.**

 277.212. [1.] The attorney general shall enforce the provisions of sections 277.200 to
2 277.215. The department of agriculture shall refer violations of the provisions of sections
3 277.200 to 277.215 to the attorney general. **Any seller who has entered into a contract under**
4 **section 277.204 and who believes that he or she has been injured by a violation of the**
5 **provisions of sections 277.200 to 277.215 may refer his or her complaint to the attorney**
6 **general, who shall request a copy of the contract which is the subject of the complaint from**
7 **the packer and shall investigate the complaint.** The attorney general [or any person injured
8 by a violation of the provisions of sections 277.200 to 277.215] may bring an action pursuant to
9 the provisions of chapter 407, RSMo, for any remedy allowed for unlawful merchandising
10 practices.

11 **[2. A seller who receives a discriminatory price or who is offered only a discriminatory**
12 **price in violation of the provisions of sections 277.200 to 277.215 may receive treble damages,**
13 **costs and a reasonable attorney's fee.]**

 277.215. 1. Each packer shall make available for publication and to the department of
2 agriculture a daily report setting forth information regarding prices paid for livestock under each
3 contract in force in Missouri in which the packer and a Missouri resident are parties for the
4 purchase of livestock by the packer and which sets a date for delivery more than fourteen days

5 after the making of the contract.

6 2. The report shall be completed on forms prepared by the department for comparison
7 with cash market prices for livestock and livestock carcasses according to procedures required
8 by the department. The report shall not include information regarding the identity of a seller.

9 3. Any packer who fails to report as required by this section is guilty of a class A
10 misdemeanor.

11 4. The department shall adopt rules to implement the provisions of sections 277.200 to
12 277.215.

13 5. No rule or portion of a rule promulgated pursuant to the authority of this section shall
14 become effective unless it has been promulgated pursuant to the provisions of chapter 536,
15 RSMo.

16 6. In the event a federal law regarding livestock price reporting becomes effective, the
17 department of agriculture shall immediately adopt such rules as are necessary to permit Missouri
18 producers and packers to remain economically competitive with producers and packers in other
19 states.

20 7. Sections 277.200 to 277.215 shall expire December 31, [2002] **2006**.

2 [277.203. A packer purchasing or soliciting livestock in this state for
3 slaughter shall not discriminate in prices paid or offered to be paid to sellers of that
4 livestock. The provisions of this section shall not be construed to mean that a price
5 or payment method must remain fixed throughout any marketing period. The
6 provisions of this section shall not apply to the sale and purchase of livestock if the
7 following requirements are met:

8 (1) The price differential is based on the quality of the livestock, if the packer
9 purchases or solicits the livestock based upon a payment method specifying prices
10 paid for criteria relating to carcass merit; actual and quantifiable costs related to
11 transporting and acquiring the livestock by the packer; or an agreement for the
12 delivery of livestock at a specified date or time; and

13 (2) After making a differential payment to a seller, the packer publishes
14 information relating to the differential pricing, including the payment method for
15 carcass merit, transportation and acquisition pricing, and an offer to enter into an
16 agreement for the delivery of livestock at a specified date or time according to the
same terms and conditions offered to other sellers.]

Section B. Because of the need for continuity within the livestock packing industry,
2 section A of this act is deemed necessary for the immediate preservation of the public health,
3 welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of
4 the constitution, and section A of this act shall be in full force and effect upon its passage and
5 approval.