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Nebraska Competitive Livestock Marketing Act

J. David Aiken[1]

LB835, the Nebraska Competitive Livestock Marketing Act, was adopted in 1999. The act regulates marketing and livestock ownership for packers slaughtering 150,000 or more animal units per year (150,000 steers, 350,000 calves up to 450 pounds, or 750,000 hogs). The act regulates packer livestock ownership, hog and cattle purchases and contracts, and livestock price reporting. The restrictions differ between hog and cattle purchases, but the price-reporting requirements are the same in both cases. Price-reporting requirements go into effect Feb. 15, 2000. There is some disagreement regarding when other provisions of the act take effect. LB835 took effect May 27, 1999. A copy of the law is available from your county extension office. Ask for publication NF99-401.

Legislative findings. The act is intended to provide livestock price transparency by establishing livestock price and contract reporting requirements, eliminating volume premiums and volume-based incentives and reinforcing Initiative 300's prohibition of packer feeding.

Packer livestock ownership. Effective May 27, 1999, packers cannot directly or indirectly own or feed livestock except for five days incidental to slaughter. Packers (if incorporated) have also been prohibited since November 1982 from owning livestock or agricultural land under article 8 §12 of the Nebraska constitution (popularly known as Initiative 300). Violations are prosecuted by the Nebraska Attorney General, and violations are punished by a fine of at least $1,000 per day.

Hog purchases. Packers may not purchase hogs on terms that are not available to other livestock sellers. However, prices may vary throughout a marketing period. It is unclear whether this provision took effect May 27, 1999 or goes into effect when the reporting requirements take effect, Feb. 15, 2000.

An exception is made for direct, spot or cash purchases where any price differential is based on carcass merit or transportation costs, and prices are reported (including the price differential and its reason). A second exception is for contracts to purchase hogs at a specific date or time if the requirements for cash sales are met and if the contract is offered to other sellers. These provisions would appear not to take effect until the price reporting requirements go into effect, Feb. 15, 2000.

The hog purchase restrictions may be enforced by private litigation if the person bringing the lawsuit can prove that he or she has been damaged by the violation. The hog seller also may cancel a contract violating these requirements. Packer violation of these requirements is a class IV misdemeanor, punishable by a $500 fine per violation.

Hog price reporting. Beginning Feb. 15, 2000, packers must report all prices paid for hogs twice daily to the Nebraska Department of Agriculture and the USDA Ag Marketing Service. Reports must include (1) cash prices and number of hogs purchased, (2) base price and quality premiums or discounts, (3) formula pricing, and (4) contract prices and formulas. Seller names are not reported. NDA must report prices to the public. Packers violating price reporting requirements are punishable by a fine of up to $1,000 per day. Deliberate false reporting is a class IV misdemeanor ($100-$500 fine per violation). The attorney general or any person harmed by price reporting violations (e.g. livestock producers) may file suit to enforce them.

Cattle purchase contracts. Packer contracts to purchase cattle for slaughter cannot require the seller to keep the price secret and must specify a delivery date. Formula or grid pricing is illegal unless a base price is specified prior to the cattle being committed or scheduled for slaughter. It is unclear whether these provisions took effect May 27, 1999 or go into effect when the reporting requirements take effect, Feb. 15, 2000.

Contracts specifying a delivery month allowing the packer to specify the week or delivery are exempted where the packer reports the contract price and delivery date. This provision would appear not to take effect until the price reporting requirements go into effect, Feb. 15, 2000.

The cattle purchase restrictions may be enforced by private litigation if the person bringing the lawsuit can prove that he or she has been damaged by the violation. The cattle seller may also cancel a contract violating these requirements. Finally, packer violation of these requirements is a class IV misdemeanor, punishable by a $500 fine per violation.

Fees. NDA may charge up to 2 cents per animal unit to cover program investigation and enforcement.

Enforcement. NDA must report violations to the attorney general, who is responsible for enforcement. Livestock sellers economically harmed by violations may also sue privately to enforce the act. If you have questions regarding the act, contact the Nebraska attorney general at (402) 471-3839 or the Nebraska Department of Agriculture at (402) 471-2341.

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