To amend the Agricultural Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers.

A BILL

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

SECTION 1. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

Chapter 5 of subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.) is amended—
(1) by redesignating section 260 (7 U.S.C. 1636i) as section 261; and

(2) by inserting after section 259 the following:

“SEC. 260. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

“(a) DEFINITIONS.—In this section:

“(1) COVERED PACKER.—

“(A) IN GENERAL.—The term ‘covered packer’ means a packer that is required under this subtitle to report to the Secretary each reporting day information on the price and quantity of livestock purchased by the packer.

“(B) EXCLUSION.—The term ‘covered packer’ does not include a packer that owns only 1 livestock processing plant.

“(2) LIVESTOCK.—The term ‘livestock’ does not include—

“(A) pork;

“(B) poultry;

“(C) a dairy-bred, dairy-bred cross, or beef animal over 30 months of age; or

“(D) a foreign-born beef animal.

“(3) NONAFFILIATED PRODUCER.—The term ‘nonaffiliated producer’ means a producer of livestock—
“(A) that sells livestock to a covered packer; and

“(B)(i) that has less than 1 percent equity interest in that covered packer;

“(ii) in which that covered packer has less than 1 percent equity interest;

“(iii) that has no officers, directors, employees, or owners that are officers, directors, employees, or owners of that covered packer; and

“(iv) that has no fiduciary responsibility to that covered packer.

“(4) Spot market sale.—

“(A) In general.—The term ‘spot market sale’ means a purchase and sale of livestock by a covered packer from a nonaffiliated producer—

“(i) under an agreement that specifies a firm base price that may be equated with a fixed dollar amount on the date on which the agreement is entered into;

“(ii) under which the livestock are slaughtered not more than 14 days after the date on which the agreement is entered into; and
“(iii) under which a reasonable competitive bidding opportunity exists on the date on which the agreement is entered into, as determined under subparagraph (B).

“(B) REASONABLE COMPETITIVE BIDDING OPPORTUNITY.—For the purposes of subparagraph (A)(iii), a reasonable competitive bidding opportunity is considered to exist if—

“(i) no written or oral agreement precludes the nonaffiliated producer from soliciting or receiving bids from other covered packers; and

“(ii) no circumstance, custom, or practice exists that—

“(I) establishes the existence of an implied contract (as determined in accordance with the Uniform Commercial Code); and

“(II) precludes the nonaffiliated producer from soliciting or receiving bids from other covered packers.

“(b) GENERAL RULE.—Of the quantity of livestock that is slaughtered by a covered packer during each reporting week in each plant, the covered packer shall
slaughter not less than 50 percent of the quantity through spot market sales from nonaffiliated producers.

“(c) NONPREEMPTION.—Notwithstanding section 259, this section does not preempt any requirement of a State or political subdivision of a State that requires a covered packer to purchase a greater percentage of livestock on the spot market than the percentage required under this section.

“(d) RELATIONSHIP TO OTHER PROVISIONS.—Nothing in this section affects the interpretation of any other provision of this Act, including section 202.”.