

Public Law 109–296  
109th Congress

An Act

Oct. 5, 2006  
[H.R. 3408]

To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act.

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

**SECTION 1. EXTENSION.**

(a) **IN GENERAL.**—Chapter 5 of subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.) is amended by adding at the end the following new section:

7 USC 1636i.

**“SEC. 260. TERMINATION OF AUTHORITY.**

“The authority provided by this subtitle terminates on September 30, 2010.”.

(b) **CONFORMING AMENDMENT AND EXTENSION.**—Section 942 of the Livestock Mandatory Reporting Act of 1999 (7 U.S.C. 1635 note; Public Law 106–78) is amended by striking “terminate on September 30, 2005” and inserting “(other than section 911 of subtitle A and the amendments made by that section) terminate on September 30, 2010”.

**SEC. 2. DEFINITIONS.**

(a) **BASE MARKET HOGS.**—Section 231(4) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635i(4)) is amended to read as follows:

“(4) **BASE MARKET HOG.**—The term ‘base market hog’ means a barrow or gilt for which no discounts are subtracted from and no premiums are added to the base price.”.

(b) **BOARS.**—Section 231(5) of such Act (7 U.S.C. 1635i(5)) is amended to read as follows:

“(5) **BOAR.**—The term ‘boar’ means a sexually-intact male swine.”.

(c) **PACKER OF SOWS AND BOARS.**—Section 231(12) of such Act (7 U.S.C. 1635i(12)) is amended by—

(1) striking subparagraph (B) and inserting the following new subparagraph:

“(B) for any calendar year, the term includes only—

“(i) a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding five calendar years; and

“(ii) a person that slaughtered an average of at least 200,000 sows, boars, or any combination thereof, per year during the immediately preceding five calendar years; and”;

(2) in subparagraph (C)—

- (A) by inserting “or person” after “swine processing plant”;
- (B) by inserting “or person” after “plant capacity of the processing plant”; and
- (C) by inserting “or person” after “determining whether the processing plant”.

**SEC. 3. REPORTING; BARROWS AND GILTS.**

Section 232(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j(c)) is amended to read as follows:

“(c) DAILY REPORTING; BARROWS AND GILTS.—

“(1) PRIOR DAY REPORT.—

“(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary, for each business day of the packer, such information as the Secretary determines necessary and appropriate to—

“(i) comply with the publication requirements of this section; and

“(ii) provide for the timely access to the information by producers, packers, and other market participants.

“(B) REPORTING DEADLINE AND PLANTS REQUIRED TO REPORT.—A packer required to report under subparagraph (A) shall—

“(i) not later than 7:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts purchased or priced, and

“(ii) not later than 9:00 a.m. Central Time on each reporting day, report information regarding all barrows and gilts slaughtered, during the prior business day of the packer.

“(C) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this paragraph shall include—

“(i) all purchase data, including—

“(I) the total number of—

“(aa) barrows and gilts purchased; and

“(bb) barrows and gilts scheduled for delivery; and

“(II) the base price and purchase data for slaughtered barrows and gilts for which a price has been established;

“(ii) all slaughter data for the total number of barrows and gilts slaughtered, including—

“(I) information concerning the net price, which shall be equal to the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of barrows and gilts delivered at the plant—

“(aa) including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer; and

“(bb) excluding any sum earlier paid to a producer that must later be repaid to the packer;

“(II) information concerning the average net price, which shall be equal to the quotient (stated per hundred pounds of carcass weight of barrows and gilts) obtained by dividing—

“(aa) the total amount paid for the barrows and gilts slaughtered at a packing plant during the applicable reporting period, including all premiums and discounts, and including any sum deducted from the price per hundredweight paid to a producer that reflects the repayment of a balance owed by the producer to the packer, or the accumulation of a balance to later be repaid by the packer to the producer, less all discounts; by

“(bb) the total carcass weight (in hundred pound increments) of the barrows and gilts;

“(III) information concerning the lowest net price, which shall be equal to the lowest net price paid for a single lot or a group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

“(IV) information concerning the highest net price, which shall be equal to the highest net price paid for a single lot or group of barrows or gilts slaughtered at a packing plant during the applicable reporting period per hundred pounds of carcass weight of barrows and gilts;

“(V) the average carcass weight, which shall be equal to the quotient obtained by dividing—

“(aa) the total carcass weight of the barrows and gilts slaughtered at the packing plant during the applicable reporting period, by

“(bb) the number of the barrows and gilts described in item (aa), adjusted for special slaughter situations (such as skinning or foot removal), as the Secretary determines necessary to render comparable carcass weights;

“(VI) the average sort loss, which shall be equal to the average discount (in dollars per hundred pounds carcass weight) for barrows and gilts slaughtered during the applicable reporting period, resulting from the fact that the barrows and gilts did not fall within the individual packer’s established carcass weight or lot variation range;

“(VII) the average backfat, which shall be equal to the average of the backfat thickness (in inches) measured between the third and fourth from the last ribs, 7 centimeters from the carcass split (or adjusted from the individual packer’s measurement to that reference point using an adjustment made by the Secretary) of the barrows

and gilts slaughtered during the applicable reporting period;

“(VIII) the average lean percentage, which shall be equal to the average percentage of the carcass weight comprised of lean meat for the barrows and gilts slaughtered during the applicable reporting period, except that when a packer is required to report the average lean percentage under this subclause, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert to the carcass measurements or lean percentage of the barrows and gilts of the individual packer to correlate to a common percent lean measurement; and

“(IX) the total slaughter quantity, which shall be equal to the total number of barrows and gilts slaughtered during the applicable reporting period, including all types of purchases and barrows and gilts that qualify as packer-owned swine; and

“(iii) packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

“(D) PUBLICATION.—

“(i) IN GENERAL.—The Secretary shall publish the information obtained under this paragraph in a prior day report—

Deadlines.

“(I) in the case of information regarding barrows and gilts purchased or priced, not later than 8:00 a.m. Central Time, and

“(II) in the case of information regarding barrows and gilts slaughtered, not later than 10:00 a.m. Central Time,

on the reporting day on which the information is received from the packer.

“(ii) PRICE DISTRIBUTIONS.—The information published by the Secretary under clause (i) shall include a distribution of net prices in the range between and including the lowest net price and the highest net price reported. The publication shall include a delineation of the number of barrows and gilts at each reported price level or, at the option of the Secretary, the number of barrows and gilts within each of a series of reasonable price bands within the range of prices.

“(2) MORNING REPORT.—

“(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 10:00 a.m. Central Time each reporting day—

“(i) the packer’s best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased

throughout the reporting day through each type of purchase;

“(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

“(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

“(iv) the base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis.

Deadline.

“(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the morning report as soon as practicable, but not later than 11:00 a.m. Central Time, on each reporting day.

“(3) AFTERNOON REPORT.—

“(A) IN GENERAL.—The corporate officers or officially designated representatives of each packer processing plant that processes barrows or gilts shall report to the Secretary not later than 2:00 p.m. Central Time each reporting day—

“(i) the packer’s best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

“(ii) the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

“(iii) the base price paid for all base market hogs purchased up to that time of the reporting day through negotiated purchases; and

“(iv) the base price paid for all base market hogs purchased up to that time of the reporting day through each type of purchase other than negotiated purchase, unless such information is unavailable due to pricing that is determined on a delayed basis.

Deadline.

“(B) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in the afternoon report as soon as practicable, but not later than 3:00 p.m. Central Time, on each reporting day.”.

#### SEC. 4. REPORTING; SOWS AND BOARS.

Section 232 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635j) is amended by—

(1) redesignating subsection (d) as subsection (e); and

(2) inserting after subsection (c) the following new subsection:

“(d) DAILY REPORTING; SOWS AND BOARS.—

“(1) PRIOR DAY REPORT.—The corporate officers or officially designated representatives of each packer of sows and boars shall report to the Secretary, for each business day of the packer, such information reported by hog class as the Secretary determines necessary and appropriate to—

“(A) comply with the publication requirements of this section; and

“(B) provide for the timely access to the information by producers, packers, and other market participants.

“(2) REPORTING.—Not later than 9:30 a.m. Central Time, or such other time as the Secretary considers appropriate, on each reporting day, a packer required to report under paragraph (1) shall report information regarding all sows and boars purchased or priced during the prior business day of the packer.

“(3) INFORMATION REQUIRED.—The information from the prior business day of a packer required under this subsection shall include all purchase data, including—

“(A) the total number of sows purchased and the total number of boars purchased, each divided into at least three reasonable and meaningful weight classes specified by the Secretary;

“(B) the number of sows that qualify as packer-owned swine;

“(C) the number of boars that qualify as packer-owned swine;

“(D) the average price paid for all sows;

“(E) the average price paid for all boars;

“(F) the average price paid for sows in each weight class specified by the Secretary under subparagraph (A);

“(G) the average price paid for boars in each weight class specified by the Secretary under subparagraph (A);

“(H) the number of sows and the number of boars for which prices are determined, by each type of purchase;

“(I) the average prices for sows and the average prices for boars for which prices are determined, by each type of purchase; and

“(J) such other information as the Secretary considers appropriate to carry out this subsection.

“(4) PRICE CALCULATIONS WITHOUT PACKER-OWNED SWINE.—

A packer shall omit the prices of sows and boars that qualify as packer-owned swine from all average price calculations, price range calculations, and reports required by this subsection.

“(5) REPORTING EXCEPTION: PUBLIC AUCTION PURCHASES.—

The information required to be reported under this subsection shall not include purchases of sows or boars made by agents of the reporting packer at a public auction at which the title of the sows and boars is transferred directly from the producer to such packer.

“(6) PUBLICATION.—The Secretary shall publish the information obtained under this paragraph in a prior day report not later than 11:00 a.m. Central Time on the reporting day on which the information is received from the packer.

Deadline.

“(7) ELECTRONIC SUBMISSION OF INFORMATION.—The Secretary of Agriculture shall provide for the electronic submission of any information required to be reported under this subsection through an Internet website or equivalent electronic means maintained by the Department of Agriculture.”.

Approved October 5, 2006.

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LEGISLATIVE HISTORY—H.R. 3408:

CONGRESSIONAL RECORD:

Vol. 151 (2005): Sept. 14, considered and passed House.  
Vol. 152 (2006): Sept. 20, considered and passed Senate.