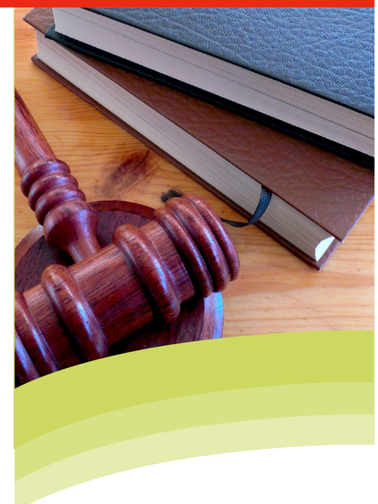
United States Department of Agriculture

Agricultural Marketing Service

The Packers & Stockyards Act



Congress identified several purposes for the Packers and Stockyards Act (P&S Act). These include:

- *Assuring fair competition and trade practices*
- *Safeguarding farmers and ranchers*
- *Protecting consumers*
- *Protecting livestock, meat, and poultry industry members from unfair, deceptive, unjustly discriminatory, and monopolistic practices*

The Agricultural Marketing Service (AMS) administers the P&S Act through the Packers and Stockyards Division of its Fair Trade Practices Program. AMS is an agency within the United States Department of Agriculture (USDA).

History

President Harding signed the P&S Act on August 15, 1921. Congress passed the P&S Act to address serious concerns about anticompetitive activities among meat packers. Initially, the P&S Act gave USDA authority to regulate meat packers and those engaged in livestock marketing activities at large public stockyards. The P&S Act also authorized USDA to hear complaints and issue reparation orders when violations of the P&S Act by stockyard owners, market agencies, or dealers result in damages.

Congress has updated the P&S Act many times to keep up with a changing industry. In 1958, Congress expanded jurisdiction under the P&S Act to include all auction markets operating in commerce. Congress also added all the livestock activities in commerce of market agencies and dealers.

In 1976, Congress increased financial protection for livestock producers in two ways. They added a bond requirement for some packers, and established a statutory trust for livestock. They also expanded USDA's jurisdiction over wholesale brokers, dealers, and distributors who market meat in commerce.

In 1987, Congress added jurisdiction over live poultry dealers and important protections for poultry growers. The 1987 amendments require prompt payment for poultry purchased and for the services of those raising poultry under growing arrangements. Congress also established a statutory trust for poultry.

In 1999, Congress authorized the swine contract library, and then, in 2000, required USDA to complete an annual assessment of the cattle and hog industries. In 2002, they expanded USDA's jurisdiction to include swine contractors.

In 2008, Congress required contractors to give swine contract producers and live poultry growers the right to cancel a contract within three days after signing it. They required contractors to disclose when large capital investments may be required over the life of the contract. They enabled swine contract producers and live poultry growers to litigate contract disputes where the principal part of their production occurs. Congress also gave swine contract producers and live poultry growers the right to decline arbitration before entering into contracts.

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Who Benefits from the P&S Act?

The P&S Act safeguards and protects livestock producers, poultry growers, and consumers. It also protects businesses engaged in marketing, processing, and distributing livestock, meat, and poultry.

Who is Subject to the P&S Act?

Those engaged in the business of marketing livestock, meat, and poultry in commerce are subject to the P&S Act. These include stockyards, commission firms, and livestock auctions. They include order buyers and livestock dealers. They include meat packers, meat brokers, meat wholesalers and distributors. They also include swine contractors and live poultry dealers.

Who is Not Subject to the P&S Act?

Farmers and ranchers are not subject to the P&S Act when they buy livestock for their own feeding purposes, or when they market their own livestock.

Enforcement Procedures

AMS's FTPP Packers and Stockyards Division monitors industry activities. We also conduct investigations and regulatory reviews. The investigations and reviews help us to determine whether subject persons and firms are complying with the P&S Act. We resolve alleged violations according to their seriousness, as follows:

Notices of Violation

We give subject entities notice of the alleged violations that we found.

Stipulation Agreements

We offer to settle the violation by entering into a stipulation agreement. The stipulation agreement identifies the violations we found, and the civil penalty amount to be paid to resolve those violations. If the offer is accepted, we agree to not pursue further legal action against the violator for those violations. If the offer is not accepted, we may pursue enforcement through an administrative complaint, which could result in a hearing before an administrative law judge.

Administrative Actions

We initiate these legal actions within USDA through the Office of the General Counsel (OGC). The first step is filing a complaint alleging specific violations of the P&S Act and regulations. The accused party can respond to the allegations and request a hearing before an Administrative Law Judge (ALJ). Either party may appeal the ALJ's decision to the USDA Judicial Officer (JO). The accused party may also appeal the JO's ruling to a U.S. Appeals Court, and further petition the Supreme Court to review the appellate ruling.

U.S. Department of Justice Actions

When warranted, we ask OGC to refer alleged violations to the U.S. Department of Justice. A United States Attorney brings these actions in U.S. District Court. The accused party can respond to the allegations and request a hearing. In a civil case, either party may appeal the ruling to a U.S. Appeals Court, and further petition the Supreme Court to review the appellate ruling. In a criminal case, a not guilty ruling is final. However, the accused party may appeal a guilty verdict, and either party may appeal the sentence imposed after a guilty verdict.

Penalties for Violations

The P&S Act authorizes the following penalties for violations:

- Cease and desist order
- Suspension of business operations
- Civil penalties up to a maximum of $28,061 per violation; $81,633 for violation of poultry payment provisions
- Permanent injunctions, fines, or jail sentences for Justice actions

Please direct comments or questions about this publication to the following:

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