

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 364

To clarify the eligibility of certain small businesses for loans under the Small Business Act, to aid, protect, and preserve small businesses in meat production and marketing, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. SMITH of Iowa introduced the following bill; which was referred jointly to the Committees on Agriculture and Small Business

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## A BILL

To clarify the eligibility of certain small businesses for loans under the Small Business Act, to aid, protect, and preserve small businesses in meat production and marketing, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       That this Act may be cited as the “Small Business Meat  
4       Producer and Marketer Protection Act of 1993”.

5       SECTION 1. The Small Business Act is hereby amend-  
6       ed as follows:

7               (a) by inserting in section 3 before the word  
8       “credit” the word “sufficient”, and by inserting

1 after the word “conditions” the words “and at rea-  
2 sonable rates”; and

3 (b) by inserting in section 18(a) after the word  
4 “moratorium” the following: “or if the agency has  
5 promulgated and is operating and administering a  
6 loan program under which all qualified applicants  
7 are not being granted loans,”.

8 SEC. 2. CONGRESSIONAL FINDING AND DECLARA-  
9 TION OF POLICY.—

10 (a) The Congress finds that the existence, in indus-  
11 tries engaged in commerce or in the production, process-  
12 ing, manufacturing, and distribution of livestock and meat  
13 food products for commerce, of marketing conditions det-  
14 rimental to the maintenance of a free and competitive en-  
15 vironment needed for the health, efficiency, and general  
16 well-being of business (1) causes commerce and the chan-  
17 nels and instrumentalities of commerce to be used to  
18 spread and perpetuate such conditions among businesses  
19 located in the several States; (2) burdens commerce and  
20 the free flow of livestock and meat food products in com-  
21 merce; (3) constitutes an unfair method of competition in  
22 commerce; (4) leads to a burdening and obstruction of  
23 commerce and the free flow of goods in commerce; and  
24 (5) interferes with the orderly and fair marketing of goods  
25 in commerce.

1 (b) It is declared to be the policy of this Act, through  
2 the exercise by Congress of its power to regulate commerce  
3 among the several States and with foreign nations, to cor-  
4 rect and as rapidly as practicable to eliminate the condi-  
5 tions above referred to in such industries without substan-  
6 tially curtailing the production, processing, manufactur-  
7 ing, or distribution of such products.

8 SEC. 3. As used in this Act—

9 (a) “Commerce” means trade, commerce, trans-  
10 portation, transmission or communication among the  
11 several States or between any State and any place  
12 outside thereof.

13 (b) “Livestock” means cattle, calves, swine,  
14 sheep or lambs, whether alive or dead.

15 (c) “Meat food products” means all products  
16 and by-products of the slaughtering and meat pack-  
17 ing industry, if edible.

18 (d) “Meatpacker” means any person engaged in  
19 the business of buying livestock for purposes of  
20 slaughter or of manufacturing or preparing meats or  
21 meat food products for sale or shipment.

22 (e) “Meat marketer” means any person en-  
23 gaged in the business of buying, selling, brokering,  
24 purveying or otherwise dealing in meats or meat  
25 food products.

1 (f) "Person" means one or more individuals,  
2 partnerships, associations, corporations, legal rep-  
3 resentatives, joint stock companies, trustees and re-  
4 ceivers in bankruptcy and reorganization, common-  
5 law trusts, or any organized group, whether or not  
6 incorporated.

7 (g) "Meatpacker or meat marketer engaged in  
8 commerce" means a meatpacker or meat marketer  
9 (1) who is engaged in commerce or (2) who has em-  
10 ployees engaged in the production, processing, man-  
11 ufacturing or distribution of meat food products for  
12 commerce, or employees handling, selling, or other-  
13 wise working on meat food products which have been  
14 moved in or produced, processed, manufactured, or  
15 distributed for commerce by any person and which,  
16 during any one of the last three years had annual  
17 gross volume of sales made or business done of not  
18 less than \$250,000 (exclusive of excise taxes at the  
19 retail level which are separately stated).

20 SEC. 4. (a) It shall be unlawful for any meatpacker  
21 engaged in commerce to slaughter or cause to be slaugh-  
22 tered, whether by contract, business order, or by any other  
23 transaction, at any one location during any calendar week  
24 more than one hundred head of cattle or calves, three hun-  
25 dred head of swine, or three hundred head of sheep or

1 lambs which were owned prior to slaughter for a period  
2 in excess of twenty days by such meatpacker or by any  
3 person who owns or controls more than 5 per centum of  
4 the stock, voting power, or control of a meatpacker or by  
5 any person, subsidiary, or affiliate in which such  
6 meatpacker or other person owns or controls a total of  
7 more than 5 per centum of the stock, voting power, or  
8 control thereof. The prohibition in this subsection shall  
9 apply to livestock owned by such meatpacker or such per-  
10 sons or subject to their control directly or indirectly by  
11 contract, purchase order, option, or other arrangement.

12 (b) It shall be unlawful for any meatpacker or meat  
13 marketer engaged in commerce to offer for sale to or to  
14 purchase from a meatpacker or meat marketer, whether  
15 by contract, business order, or by any other transaction,  
16 during any calendar week more than one hundred head  
17 of live cattle or calves, three hundred head of live swine,  
18 or three hundred head of live sheep or lambs which were  
19 owned prior to the date of sale for a period in excess of  
20 twenty days by such meatpacker or meat marketer or by  
21 any person who owns or controls more than 5 per centum  
22 of the voting power or control of such meatpacker or meat  
23 marketer or by any subsidiary or affiliate in which such  
24 meatpacker, meat retailer or other person owns or controls  
25 a total of more than 5 per centum of the voting power

1 or control thereof. The prohibition in this subsection shall  
2 apply to livestock owned by such meatpacker or meat mar-  
3 keter or such persons or subject to their control directly  
4 or indirectly by contract, purchase order, option or other  
5 arrangement; but it shall not be deemed to prohibit any  
6 such meatpacker, meat marketer, or other person from  
7 making, executing or fulfilling a contract of sale of any  
8 commodity for future delivery on a board of trade which  
9 has been designated as a contract market by the Commod-  
10 ity Futures Trading Commission.

11 (c) It shall be unlawful for any meatpacker or meat  
12 marketer engaged in commerce to contract for the forward  
13 delivery of livestock if such contract authorizes, directly  
14 or indirectly, such meatpacker or meat marketer to select  
15 the date for the delivery of such livestock unless such date  
16 is within a period of twenty consecutive calendar days.

17 SEC. 5. (a) Any person knowingly violating any provi-  
18 sion of section 4 of this Act shall be fined not more than  
19 \$50,000, or more than \$100 per head of cattle or calves  
20 and \$25 per head of swine, lambs or sheep slaughtered,  
21 offered for sale or purchased, or contracted for forward  
22 delivery in excess of the maximum number permitted by  
23 such section, whichever amount is greater. A violation by  
24 a corporation shall also be deemed to be a violation by  
25 the individual directors, officers, receivers, trustees, or

1 agents of such corporation who authorized, ordered or per-  
2 formed any of the conduct constituting the violation in  
3 whole or in part.

4 (b) A violation of this Act which occurs in more than  
5 one week shall be considered a separate violation for each  
6 calendar week during which a violation occurs.

7 SEC. 6. For the purposes of the Act entitled “An Act  
8 to supplement existing laws against unlawful restraints  
9 and monopolies, and for other purposes”, approved Octo-  
10 ber 15, 1914 (38 Stat. 730), and the Federal Trade Com-  
11 mission Act, this Act shall be considered to be an antitrust  
12 law.

13 SEC. 7. If any provision of this Act or the application  
14 thereof to any person or circumstance is held invalid, the  
15 validity of the remainder of this Act and the application  
16 of such provision to other persons or circumstances shall  
17 not be affected thereby.

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