

117TH CONGRESS
1ST SESSION

S. 543

To amend the Packers and Stockyards Act, 1921, to establish a cattle contract library, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, MARCH 1), 2021

Mrs. FISCHER (for herself, Mr. WYDEN, Mrs. HYDE-SMITH, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Packers and Stockyards Act, 1921, to establish a cattle contract library, 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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cattle Market Trans-
5 parency Act of 2021”.

6 **SEC. 2. CATTLE CONTRACT LIBRARY.**

7 (a) IN GENERAL.—Title II of the Packers and Stock-
8 yards Act, 1921, is amended by inserting after section 223
9 (7 U.S.C. 198b) the following:

1 **“Subtitle C—Cattle Contracts**

2 **“SEC. 231. DEFINITIONS.**

3 “In this subtitle:

4 “(1) BASE PRICE.—The term ‘base price’
5 means the price paid for cattle delivered to a packer,
6 before application of any premiums or discounts, ex-
7 pressed in dollars per hundred pounds of carcass
8 weight.

9 “(2) CONTRACT.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (B), the term ‘contract’ means any
12 agreement, written or oral, between a packer
13 and a producer for the purchase of fed cattle
14 for slaughter.

15 “(B) EXCLUSION.—The term ‘contract’
16 does not include a contract for a negotiated
17 purchase.

18 “(3) FED CATTLE.—The term ‘fed cattle’
19 means a steer or heifer that has been finished on a
20 ration of roughage and feed concentrates, such as
21 grains, protein meal, grass (forage), and other nutri-
22 ent-rich feeds, prior to slaughter.

23 “(4) FORMULA MARKETING ARRANGEMENT.—
24 The term ‘formula marketing arrangement’ means
25 the advance commitment of cattle for slaughter—

1 “(A) by any means other than through a
 2 negotiated purchase, negotiated grid purchase,
 3 or forward contract; and

4 “(B) using a method for calculating
 5 price—

6 “(i) under which the price is deter-
 7 mined at a future date;

8 “(ii) the basis of which is a price es-
 9 tablished for a specified market, which
 10 may be based on any publicly reported
 11 price, including plant average price, re-
 12 gional price, downstream price, or some
 13 other mutually agreeable price source; and

14 “(iii) that may include a grid or
 15 nongrid price.

16 “(5) FORWARD CONTRACT.—The term ‘forward
 17 contract’ means—

18 “(A) an agreement for the purchase of fed
 19 cattle, executed in advance of slaughter, under
 20 which the base price is established by reference
 21 to—

22 “(i) prices quoted on the Chicago
 23 Mercantile Exchange; or

24 “(ii) other comparable publicly avail-
 25 able prices; or

1 “(B) any other contract for the purchase
2 of fed cattle, executed in advance of slaughter,
3 as determined by the Secretary.

4 “(6) HEIFER.—The term ‘heifer’ means a bo-
5 vine female that has not given birth to a calf.

6 “(7) NEGOTIATED GRID PURCHASE.—The term
7 ‘negotiated grid purchase’ means a purchase of fed
8 cattle by a packer from a producer under which—

9 “(A) the buyer-seller interaction results in
10 a negotiated base price, which may be adjusted
11 by premiums and discounts; and

12 “(B) the cattle are scheduled for delivery
13 to the packer not more than 14 days after the
14 date on which the agreement for purchase is
15 made.

16 “(8) NEGOTIATED PURCHASE.—The term ‘ne-
17 gotiated purchase’ means a purchase of fed cattle
18 (commonly known as a ‘cash’ or ‘spot market’ pur-
19 chase) by a packer from a producer under which—

20 “(A) the buyer-seller interaction that re-
21 sults in the purchase and the agreement on the
22 actual base price for the purchase occur on the
23 same day; and

24 “(B) the cattle are scheduled for delivery
25 to the packer not more than 14 days after the

1 date on which the agreement for purchase is
2 made.

3 “(9) PACKER.—The term ‘packer’ has the
4 meaning given the term in section 221 of the Agri-
5 cultural Marketing Act of 1946 (7 U.S.C. 1635d).

6 “(10) PRODUCER.—The term ‘producer’ means
7 a person engaged in the business of selling cattle to
8 a packer for slaughter.

9 “(11) STEER.—The term ‘steer’ means a bovine
10 male castrated before reaching sexual maturity.

11 “(12) TYPE OF CONTRACT.—

12 “(A) IN GENERAL.—The term ‘type of con-
13 tract’ means the classification of a contract for
14 the purchase of cattle—

15 “(i) into 1 of the categories described
16 in subparagraph (B); and

17 “(ii) by determining the base price of
18 the cattle.

19 “(B) CATEGORIES.—The categories for
20 classification of a type of contract are the fol-
21 lowing:

22 “(i) Formula marketing arrangement.

23 “(ii) Forward contract.

24 “(iii) Negotiated grid purchase con-
25 tract.

1 **“SEC. 232. CATTLE CONTRACT LIBRARY.**

2 “(a) IN GENERAL.—Subject to the availability of ap-
 3 propriations to carry out this section, the Secretary shall
 4 establish and maintain a library or catalog of each type
 5 of contract offered by packers to producers for the pur-
 6 chase of all or part of the production of the producers
 7 of fed cattle (including cattle that are purchased or com-
 8 mitted for delivery), including any schedules of premiums
 9 or discounts associated with the contract.

10 “(b) INFORMATION COLLECTION.—

11 “(1) IN GENERAL.—To maintain the library or
 12 catalog established under subsection (a), the Sec-
 13 retary shall obtain information from each packer on
 14 each type of existing contract of the packer by re-
 15 quiring a filing or other form of information submis-
 16 sion from each packer.

17 “(2) CONTRACTED CATTLE NUMBERS.—Infor-
 18 mation that shall be submitted to the Secretary by
 19 a packer under paragraph (1) shall include, with re-
 20 spect to each existing contract of a packer—

21 “(A) the type of contract; and

22 “(B) a description of the provisions in the
 23 contract that provide for expansion in the num-
 24 bers of fed cattle to be delivered under the con-
 25 tract for the 6-month and 12-month periods fol-
 26 lowing the date of the contract.

1 “(c) AVAILABILITY OF INFORMATION.—

2 “(1) IN GENERAL.—The Secretary shall make
3 available to producers and other interested persons
4 information on the types of contracts in the library
5 or catalog established under subsection (a), includ-
6 ing notice (on a real-time basis, if practicable) of the
7 types of contracts that are being offered by packers
8 to, and are open to acceptance by, producers for the
9 purchase of fed cattle.

10 “(2) MONTHLY REPORT.—

11 “(A) IN GENERAL.—Beginning 30 days
12 after the library or catalog is established under
13 subsection (a), the Secretary shall make the in-
14 formation obtained each month in the library or
15 catalog available in a monthly report to pro-
16 ducers and other interested persons.

17 “(B) CONTENTS.—The monthly report de-
18 scribed in subparagraph (A) shall include—

19 “(i) an estimate by the Secretary of
20 the total number of fed cattle committed
21 under contracts for delivery to packers
22 within the 6-month and 12-month periods
23 following the date of the report, organized
24 by reporting region and type of contract;
25 and

1 “(ii) an estimate by the Secretary of
2 the total maximum number of fed cattle
3 that may be delivered within the 6-month
4 and 12-month periods following the date of
5 the report, based on the provisions de-
6 scribed in subsection (c)(2)(B) in existing
7 contracts, organized by reporting region
8 and type of contract.

9 “(d) MAINTENANCE OF LIBRARY OR CATALOG.—In-
10 formation in the library or catalog established under sub-
11 section (a) about types of contracts that are no longer of-
12 fered or in use shall be removed from the library or cata-
13 log.

14 “(e) CONFIDENTIALITY.—The reporting require-
15 ments for packers under this section shall be subject to
16 the confidentiality protections provided under section 251
17 of the Agricultural Marketing Act of 1946 (7 U.S.C.
18 1636).

19 “(f) VIOLATIONS.—It shall be unlawful and a viola-
20 tion of this Act for any packer to willfully fail or refuse—

21 “(1) to provide to the Secretary accurate infor-
22 mation required under this section; or

23 “(2) to comply with any other requirement of
24 this section.

1 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated to the Secretary such
 3 sums as are necessary to carry out this section.”.

4 (b) CONFORMING AMENDMENT.—Section 201 of the
 5 Packers and Stockyards Act, 1921 (7 U.S.C. 191), is
 6 amended by striking “When used in this Act” and insert-
 7 ing “Unless specified otherwise, in this Act,”.

8 **SEC. 3. CASH MARKET ACQUISITION OF CATTLE.**

9 (a) SENSE OF THE SENATE.—It is the sense of the
 10 Senate that all participants in the fed cattle market have
 11 a responsibility to contribute to regionally sufficient levels
 12 of negotiated trade of fed cattle in all cattle feeding re-
 13 gions in order to achieve robust price discovery.

14 (b) CASH MARKET ACQUISITION OF CATTLE.—Title
 15 II of the Packers and Stockyards Act, 1921 (7 U.S.C. 191
 16 et seq.) (as amended by section 2), is amended by adding
 17 at the end the following:

18 **“Subtitle D—Cash Market**
 19 **Acquisition of Cattle**

20 **“SEC. 241. DEFINITIONS.**

21 “In this subtitle:

22 “(1) NEGOTIATED GRID PURCHASE.—The term
 23 ‘negotiated grid purchase’ means a purchase of fed
 24 cattle by a packer from a producer under which—

1 “(A) the buyer-seller interaction results in
 2 a negotiated base price, which may be adjusted
 3 by premiums and discounts; and

4 “(B) the fed cattle are scheduled for deliv-
 5 ery to the packer not more than 14 days after
 6 the date on which the agreement for purchase
 7 is made.

8 “(2) NEGOTIATED PURCHASE.—The term ‘ne-
 9 gotiated purchase’ means a purchase of fed cattle
 10 (commonly known as a ‘cash’ or ‘spot market’ pur-
 11 chase) by a packer from a producer under which—

12 “(A) the buyer-seller interaction that re-
 13 sults in the purchase and the agreement on the
 14 actual base price for the purchase occur on the
 15 same day; and

16 “(B) the fed cattle are scheduled for deliv-
 17 ery to the packer not more than 14 days after
 18 the date on which the agreement for purchase
 19 is made.

20 “(3) PACKER.—

21 “(A) IN GENERAL.—The term ‘packer’ has
 22 the meaning given the term in section 221 of
 23 the Agricultural Marketing Act of 1946 (7
 24 U.S.C. 1635d).

1 “(B) EXCLUSION.—The term ‘packer’ does
2 not include a packer that slaughters cattle at
3 only 1 livestock processing plant.

4 “(4) PRODUCER.—The term ‘producer’ means a
5 person engaged in the business of selling cattle to a
6 packer for slaughter.

7 “(5) REGIONAL MANDATORY MINIMUM.—The
8 term ‘regional mandatory minimum’ means, for each
9 reporting region (as designated by the Agricultural
10 Marketing Service), of the number of transactions
11 and quantity of cattle purchased for slaughter by a
12 packer in that region each slaughter week, the min-
13 imum number of such transactions and the min-
14 imum percentage of such cattle, respectively, that
15 are required to be purchased through negotiated
16 purchases or negotiated grid purchases from pro-
17 ducers.

18 “(6) SLAUGHTER WEEK.—The term ‘slaughter
19 week’ has the meaning given the term ‘current
20 slaughter week’ in section 212 of the Agricultural
21 Marketing Act of 1946 (7 U.S.C. 1635a).

22 **“SEC. 242. REGIONAL MANDATORY MINIMUMS.**

23 “(a) IN GENERAL.—Not later than 2 years after the
24 date of enactment of this subtitle, the Secretary, in con-
25 sultation with the Chief Economist, shall establish—

1 “(1) regional mandatory minimums for the pur-
 2 pose of enhancing price discovery and transparency
 3 for cattle market participants; and

4 “(2) methods for establishing those regional
 5 mandatory minimums, which shall be publicly avail-
 6 able.

7 “(b) PUBLIC INPUT.—In carrying out subsection (a),
 8 the Secretary shall make all proposed regional mandatory
 9 minimums and proposed methods for establishing those
 10 minimums subject to a notice and comment period.

11 “(c) DURATION.—Regional mandatory minimums es-
 12 tablished for each reporting region under subsection
 13 (a)(1)—

14 “(1) may be weekly or on another periodic
 15 basis, as determined by the Secretary; and

16 “(2) shall be applicable for not more than a 24-
 17 month period.

18 “(d) CONSIDERATIONS.—In carrying out subsection
 19 (a) for each reporting region, the Secretary, in consulta-
 20 tion with the Chief Economist, shall consider the following
 21 factors:

22 “(1) The number of packers in the reporting re-
 23 gion.

24 “(2) The availability of cattle in the reporting
 25 region.

1 “(3) Pre-existing contractual arrangements of
2 packers in the reporting region.

3 “(4) The number of pricing transactions (pens
4 of cattle sold) in the reporting region.

5 “(e) INITIAL REQUIREMENT.—The initial regional
6 mandatory minimums established for each reporting re-
7 gion under subsection (a)(1) shall be not less than the av-
8 erage percentage of negotiated purchases and negotiated
9 grid purchases in that region from the 3 previous calendar
10 years.

11 “(f) BIENNIAL REVIEW.—On establishing regional
12 mandatory minimums under subsection (a)(1), the Sec-
13 retary—

14 “(1) shall review the regional mandatory mini-
15 mums not less frequently than once every 2 years;
16 and

17 “(2) may, in consultation with the Chief Econo-
18 mist, modify the regional mandatory minimums
19 after—

20 “(A) making the proposed modification
21 subject to a notice and comment period; and

22 “(B) consulting with representatives of the
23 United States cattle and beef industry.

1 “(g) ENFORCEMENT.—On establishing regional man-
 2 datory minimums under subsection (a)(1), the Secretary
 3 shall—

4 “(1) regularly monitor compliance by packers
 5 with those regional mandatory minimums; and

6 “(2) enforce this section in accordance with sec-
 7 tion 203.

8 “(h) COST-BENEFIT ANALYSIS.—Not later than 3
 9 years after establishing regional mandatory minimums
 10 under subsection (a)(1), the Secretary, in consultation
 11 with the Chief Economist, shall conduct a quantifiable,
 12 data-driven cost-benefit analysis regarding the operation
 13 and effect of those regional mandatory minimums.”.

14 **SEC. 4. 14-DAY CATTLE SLAUGHTER.**

15 (a) DEFINITION OF CATTLE COMMITTED.—Section
 16 221(1) of the Agricultural Marketing Act of 1946 (7
 17 U.S.C. 1635d(1)) is amended by striking “7-day” and in-
 18 serting “14-day”.

19 (b) MANDATORY REPORTING FOR LIVE CATTLE.—
 20 Section 222(c) of the Agricultural Marketing Act of 1946
 21 (7 U.S.C. 1635e(c)) is amended—

22 (1) in paragraph (1)—

23 (A) by striking subparagraphs (B) and
 24 (C); and

1 (B) by redesignating subparagraph (D) as
 2 subparagraph (B);

3 (2) by redesignating paragraph (2) as para-
 4 graph (3); and

5 (3) by inserting after paragraph (1) the fol-
 6 lowing:

7 “(2) PRIOR DAY REPORTING.—

8 “(A) IN GENERAL.—The corporate officers
 9 or officially designated representatives of each
 10 packer processing plant shall report to the Sec-
 11 retary, for each business day of the packer
 12 processing plant, not later than 10:00 a.m.
 13 Central Time on each reporting day, the infor-
 14 mation from the prior business day described in
 15 subparagraph (B).

16 “(B) INFORMATION REQUIRED.—The in-
 17 formation required under subparagraph (A)
 18 shall be, with respect to the prior business day,
 19 the number of cattle, organized by cattle type,
 20 scheduled for delivery to a packer processing
 21 plant for slaughter for each of the next 14 cal-
 22 endar days.”.

23 **SEC. 5. PUBLIC AVAILABILITY OF INFORMATION.**

24 Section 251(a) of the Agricultural Marketing Act of
 25 1946 (7 U.S.C. 1636(a)) is amended—

1 (1) by redesignating paragraphs (1) and (2) as
2 subparagraphs (A) and (B), respectively, and indent-
3 ing appropriately;

4 (2) in the matter preceding subparagraph (A)
5 (as so redesignated), by striking “The Secretary
6 shall make available to the public information” and
7 inserting the following:

8 “(1) IN GENERAL.—The Secretary shall make
9 available to the public all information”; and

10 (3) by adding at the end the following:

11 “(2) EFFECT.—Nothing in this section permits
12 the Secretary, or any officer or employee of the Sec-
13 retary, to withhold from the public the information,
14 statistics, and documents described in paragraph
15 (1).”.

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