

117TH CONGRESS
1ST SESSION

S. 3229

To amend the Agricultural Marketing Act of 1946 to establish a cattle contract library, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2021

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

A BILL

To amend the Agricultural Marketing Act of 1946 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 Price Discovery
5 and Transparency Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—Section 212 of the Agricultural
8 Marketing Act of 1946 (7 U.S.C. 1635a) is amended—

1 (1) in paragraph (5), by striking “cattle,” and
 2 inserting “cattle (including fed cattle),”;

3 (2) by redesignating paragraphs (4), (5), (6),
 4 (7), (8), (9), (10), (11), (12), (13), and (14) as
 5 paragraphs (5), (6), (7), (8), (10), (11), (12), (13),
 6 (15), (16), and (17), respectively;

7 (3) by inserting after paragraph (3) the fol-
 8 lowing:

9 “(4) FED CATTLE.—The term ‘fed cattle’
 10 means a steer or heifer that has been finished on a
 11 ration of roughage and feed concentrates, such as
 12 grains, protein meal, grass (forage), and other nutri-
 13 ent-rich feeds, prior to slaughter.”;

14 (4) by inserting after paragraph (8) (as so re-
 15 designated) the following:

16 “(9) NEGOTIATED GRID PURCHASE.—The term
 17 ‘negotiated grid purchase’ means a purchase of fed
 18 cattle by a packer from a producer under which—

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

22 “(B) the fed cattle are scheduled for deliv-
 23 ery to the packer not more than 14 days after
 24 the date on which the agreement for purchase
 25 is made.”; and

1 (5) by inserting after paragraph (13) (as so re-
 2 designated) the following:

3 “(14) REGIONAL MANDATORY MINIMUM.—The
 4 term ‘regional mandatory minimum’ means, for each
 5 reporting region (as designated by the Agricultural
 6 Marketing Service), of the quantity of cattle pur-
 7 chased for slaughter by a packer (as defined in sec-
 8 tion 259(a)) in that region each current slaughter
 9 week, the minimum percentage of such cattle that
 10 are required to be purchased through negotiated
 11 purchases or negotiated grid purchases from pro-
 12 ducers.”.

13 (b) CATTLE REPORTING DEFINITIONS.—Section 221
 14 of the Agricultural Marketing Act of 1946 (7 U.S.C.
 15 1635d) is amended—

16 (1) by striking paragraph (3) and inserting the
 17 following:

18 “(3) FORMULA MARKETING ARRANGEMENT.—
 19 The term ‘formula marketing arrangement’ means
 20 the advance commitment of cattle for slaughter—

21 “(A) by any means other than through a
 22 negotiated purchase, negotiated grid purchase,
 23 or forward contract; and

24 “(B) using a method for calculating
 25 price—

1 “(i) under which the price is deter-
 2 mined at a future date; and

3 “(ii) the basis of which is a price es-
 4 tablished for a specified market, which
 5 may be based on any publicly reported
 6 price, including plant average price, re-
 7 gional price, downstream price, or some
 8 other mutually agreeable price source.”;

9 (2) in paragraph (8)(B), by striking “market”
 10 and inserting “marketing”;

11 (3) by redesignating paragraphs (3), (4), (5),
 12 (6), (7), and (8) as paragraphs (4), (5), (7), (8),
 13 (10), and (12), respectively;

14 (4) by inserting after paragraph (2) the fol-
 15 lowing:

16 “(3) CONTRACT.—

17 “(A) IN GENERAL.—The term ‘contract’
 18 means any agreement, written or oral, between
 19 a packer and a producer for the purchase of fed
 20 cattle for slaughter.

21 “(B) EXCLUSION.—The term ‘contract’
 22 does not include a contract for a negotiated
 23 purchase.”;

24 (5) by inserting after paragraph (5) (as so re-
 25 designated) the following:

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

3 (6) by inserting after paragraph (8) (as so re-
4 designated) the following:

5 “(9) STEER.—The term ‘steer’ means a bovine
6 male castrated before reaching sexual maturity.”;
7 and

8 (7) by inserting after paragraph (10) (as so re-
9 designated) the following:

10 “(11) TYPE OF CONTRACT.—

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

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

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

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

21 “(i) Formula marketing arrangement.

22 “(ii) Forward contract.

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

1 **SEC. 3. 14-DAY CATTLE SLAUGHTER.**

2 (a) DEFINITION OF CATTLE COMMITTED.—Section
3 221(1) of the Agricultural Marketing Act of 1946 (7
4 U.S.C. 1635d(1)) is amended by striking “7-day” and in-
5 serting “14-day”.

6 (b) MANDATORY REPORTING FOR LIVE CATTLE.—
7 Section 222(c) of the Agricultural Marketing Act of 1946
8 (7 U.S.C. 1635e(c)) is amended—

9 (1) in paragraph (1)—

10 (A) by striking subparagraphs (B) and
11 (C); and

12 (B) by redesignating subparagraph (D) as
13 subparagraph (B);

14 (2) in paragraph (2), by striking “the informa-
15 tion” and inserting “information reported under this
16 subsection”;

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

19 (4) by inserting after paragraph (1) the fol-
20 lowing:

21 “(2) PRIOR DAY REPORTING.—

22 “(A) IN GENERAL.—The corporate officers
23 or officially designated representatives of each
24 packer processing plant shall report to the Sec-
25 retary, for each business day of the packer
26 processing plant, not later than 10:00 a.m.

1 Central Time on each reporting day, the infor-
 2 mation from the prior business day described in
 3 subparagraph (B).

4 “(B) INFORMATION REQUIRED.—The in-
 5 formation required under subparagraph (A)
 6 shall be, with respect to the prior business day,
 7 the number of cattle, organized by cattle type,
 8 scheduled for delivery to a packer processing
 9 plant for slaughter for each of the next 14 cal-
 10 endar days.”.

11 **SEC. 4. DAILY FORMULA BASE PRICE REPORTING.**

12 Section 222(c)(1)(A) of the Agricultural Marketing
 13 Act of 1946 (7 U.S.C. 1635e(c)(1)(A)) is amended in the
 14 matter preceding clause (i) by inserting “(including base
 15 price information for cattle purchased through a formula
 16 marketing arrangement)” after “day”.

17 **SEC. 5. EXPEDITED CARCASS WEIGHTS REPORTING.**

18 Section 222 of the Agricultural Marketing Act of
 19 1946 (7 U.S.C. 1635e) is amended by adding at the end
 20 the following:

21 “(f) EXPEDITED CARCASS WEIGHTS.—

22 “(1) DETERMINATION.—Not later than 180
 23 days after the date of enactment of the Cattle Price
 24 Discovery and Transparency Act of 2021, the Sec-
 25 retary shall determine the minimum amount of time

1 needed by the Secretary to publicly report the daily
2 average carcass weight of cattle slaughtered by pack-
3 er processing plants.

4 “(2) REPORTING.—Not later than 180 days
5 after the Secretary has made a determination under
6 paragraph (1), the Secretary shall begin publicly re-
7 porting the information described in that paragraph
8 within the time determined under that paragraph.”.

9 **SEC. 6. CATTLE CONTRACT LIBRARY.**

10 Chapter 2 of subtitle B of the Agricultural Marketing
11 Act of 1946 is amended—

12 (1) by redesignating section 223 (7 U.S.C.
13 1635f) as section 224; and

14 (2) by inserting after section 222 (7 U.S.C.
15 1635e) the following:

16 **“SEC. 223. CATTLE CONTRACT LIBRARY.**

17 “(a) IN GENERAL.—Subject to the availability of ap-
18 propriations to carry out this section, the Secretary shall
19 establish and maintain, through the Livestock Mandatory
20 Price Reporting program, a library or catalog of each type
21 of contract offered by packers to producers for the pur-
22 chase of all or part of the production of the producers
23 of fed cattle (including cattle that are purchased or com-
24 mitted for delivery), including any schedules of premiums
25 or discounts associated with the contract.

1 “(b) INFORMATION COLLECTION.—

2 “(1) IN GENERAL.—To maintain the library or
3 catalog established under subsection (a), the Sec-
4 retary shall obtain information from each packer on
5 each type of existing contract of the packer by re-
6 quiring a filing or other form of information submis-
7 sion from each packer.

8 “(2) CONTRACTED CATTLE INFORMATION.—In-
9 formation submitted to the Secretary by a packer
10 under paragraph (1) shall include, with respect to
11 each existing contract of a packer—

12 “(A) the type of contract;

13 “(B) the duration of the contract;

14 “(C) a summary of the contract terms;

15 “(D) provisions in the contract that may
16 affect the price of cattle covered by the con-
17 tract, including schedules, premiums and dis-
18 counts, and transportation arrangements;

19 “(E) the total number of cattle covered by
20 the contract solely committed to the packer
21 each week within the 6-month and 12-month
22 periods following the date of the contract, orga-
23 nized by reporting region;

1 “(F) in the case of a contract in which a
2 specific number of cattle are not solely com-
3 mitted to the packer—

4 “(i) an indication that the contract is
5 an open commitment; and

6 “(ii) any weekly, monthly, annual, or
7 other limitations on the number of cattle
8 that may be delivered to the packer under
9 the contract; and

10 “(G) a description of the provisions in the
11 contract that provide for expansion in the num-
12 bers of fed cattle to be delivered under the con-
13 tract for the 6-month and 12-month periods fol-
14 lowing the date of the contract.

15 “(c) AVAILABILITY OF INFORMATION.—

16 “(1) IN GENERAL.—The Secretary shall make
17 publicly available to producers and other interested
18 persons information (including the information de-
19 scribed in subsection (b)(2)), in a user-friendly for-
20 mat, on the types of contracts in the library or cata-
21 log established under subsection (a), including notice
22 (on a real-time basis, if practicable) of the types of
23 contracts that are being offered by packers to, and
24 are open to acceptance by, producers for the pur-
25 chase of fed cattle.

1 “(2) MONTHLY REPORT.—

2 “(A) IN GENERAL.—Beginning 30 days
3 after the library or catalog is established under
4 subsection (a), the Secretary shall make the in-
5 formation obtained each month in the library or
6 catalog available in a monthly report to pro-
7 ducers and other interested persons.

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

10 “(i) based on the information collected
11 under subsection (b)(2)(E), an estimate by
12 the Secretary of the total number of fed
13 cattle committed under contracts for deliv-
14 ery to packers within the 6-month and 12-
15 month periods following the date of the re-
16 port, organized by reporting region and
17 type of contract;

18 “(ii) based on the information col-
19 lected under subsection (b)(2)(F), the
20 number of contracts with an open commit-
21 ment and any weekly, monthly, annual, or
22 other limitations on the number of cattle
23 that may be delivered under such con-
24 tracts; and

1 “(iii) based on the information col-
2 lected under subsection (b)(2)(G), an esti-
3 mate by the Secretary of the total max-
4 imum number of fed cattle that may be de-
5 livered within the 6-month and 12-month
6 periods following the date of the report, or-
7 ganized by reporting region and type of
8 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 “(f) VIOLATIONS.—It shall be unlawful and a viola-
18 tion of this Act for any packer to willfully fail or refuse—

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

21 “(2) to comply with any other requirement of
22 this section.

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

1 **SEC. 7. PUBLIC AVAILABILITY OF INFORMATION.**

2 Section 251(a) of the Agricultural Marketing Act of
3 1946 (7 U.S.C. 1636(a)) is amended—

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

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

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

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

14 “(2) EFFECT.—Nothing in this section permits
15 the Secretary, or any officer or employee of the Sec-
16 retary, to withhold from the public the information,
17 statistics, and documents described in paragraph
18 (1).”.

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

20 (a) SENSE OF THE SENATE.—It is the sense of the
21 Senate that—

22 (1) all participants in the fed cattle market
23 have a responsibility to contribute to regionally suffi-
24 cient levels of negotiated trade of fed cattle in all
25 cattle feeding regions in order to achieve robust
26 price discovery; and

1 (2) the Department of Agriculture should exam-
 2 ine existing academic literature regarding minimum
 3 levels of cash transactions necessary to achieve ro-
 4 bust price discovery and enhance cattle producer le-
 5 verage in the marketplace in each of the cattle mar-
 6 keting regions.

7 (b) AMENDMENT.—Chapter 5 of subtitle B of the Ag-
 8 ricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.)
 9 is amended—

10 (1) by redesignating sections 259 and 260 as
 11 sections 260 and 261, respectively; and

12 (2) by inserting after section 258 the following:

13 **“SEC. 259. REGIONAL MANDATORY MINIMUMS FOR NEGO-**
 14 **TIATED PURCHASES AND NEGOTIATED GRID**
 15 **PURCHASES.**

16 “(a) DEFINITION OF PACKER.—

17 “(1) IN GENERAL.—In this section, the term
 18 ‘packer’ has the meaning given the term in section
 19 221.

20 “(2) EXCLUSION.—In this section, the term
 21 ‘packer’ does not include a packer that slaughters
 22 cattle at only 1 livestock processing plant.

23 “(b) ESTABLISHMENT.—

24 “(1) IN GENERAL.—Not later than 2 years
 25 after the date of enactment of the Cattle Price Dis-

1 cover and Transparency Act of 2021, the Secretary,
2 in consultation with the Chief Economist, shall es-
3 tablish—

4 “(A) regional mandatory minimums for the
5 purpose of enhancing price discovery, trans-
6 parency, and cattle producer leverage for cattle
7 market participants; and

8 “(B) methods for establishing those re-
9 gional mandatory minimums, which shall be
10 publicly available.

11 “(2) PURCHASES.—A packer shall, with respect
12 to a packer processing plant, purchase by negotiated
13 purchase or negotiated grid purchase the percentage
14 of cattle required by the regional mandatory min-
15 imum established for the region in which the packer
16 processing plant is located.

17 “(c) PUBLIC INPUT.—In carrying out subsection (b),
18 the Secretary shall make all proposed regional mandatory
19 minimums and proposed methods for establishing those
20 minimums subject to a notice and comment period.

21 “(d) DURATION.—Regional mandatory minimums es-
22 tablished for each reporting region under subsection (b)(1)
23 shall be applicable for not more than a 24-month period.

24 “(e) CONSIDERATIONS.—In carrying out subsection
25 (b) for each reporting region, the Secretary, in consulta-

1 tion with the Chief Economist, shall consider the following
 2 factors:

3 “(1) The number of packers in the reporting re-
 4 gion.

5 “(2) The availability of cattle in the reporting
 6 region.

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

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

11 “(f) INITIAL REQUIREMENT.—

12 “(1) IN GENERAL.—Subject to paragraph (2),
 13 the initial regional mandatory minimums established
 14 for each reporting region under subsection (b)(1)
 15 shall be not less than the average percentage of ne-
 16 gotiated purchases and negotiated grid purchases in
 17 that region from the preceding 18 months.

18 “(2) REQUIREMENT.—No initial regional man-
 19 datory minimum established for a reporting region
 20 under paragraph (1) shall exceed 300 percent of the
 21 lowest initial regional mandatory minimum estab-
 22 lished under that paragraph for a region that has
 23 publicly reported a majority of weekly market infor-
 24 mation during the previous 18 months.

1 “(g) BIENNIAL REVIEW.—On establishing regional
 2 mandatory minimums under subsection (b)(1), the Sec-
 3 retary—

4 “(1) shall review the regional mandatory mini-
 5 mums not less frequently than once every 2 years;
 6 and

7 “(2) shall, in consultation with the Chief Econ-
 8 omist—

9 “(A) maintain existing regional mandatory
 10 minimums; or

11 “(B) modify the regional mandatory mini-
 12 mums after—

13 “(i) consulting with representatives of
 14 the United States cattle and beef industry;
 15 and

16 “(ii) making the proposed modifica-
 17 tion subject to a notice and comment pe-
 18 riod.

19 “(h) ENFORCEMENT.—On establishing regional man-
 20 datory minimums under subsection (b)(1), the Secretary
 21 shall—

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

1 “(2) enforce this section in accordance with sec-
 2 tion 203 of the Packers and Stockyards Act, 1921
 3 (7 U.S.C. 193).

4 “(i) COST-BENEFIT ANALYSIS.—Not later than 2
 5 years after establishing regional mandatory minimums
 6 under subsection (b)(1), the Secretary, in consultation
 7 with the Chief Economist, shall conduct a quantifiable,
 8 data-driven cost-benefit analysis regarding the operation
 9 and effect of those regional mandatory minimums.

10 “(j) APPLICATION.—This section shall apply only
 11 with respect to the reporting regions designated by the Ag-
 12 ricultural Marketing Service.”.

13 **SEC. 9. MAXIMUM PENALTY AMOUNT.**

14 The Secretary of Agriculture shall revise section
 15 3.91(b)(1)(lvi) of title 7, Code of Federal Regulations (or
 16 a successor regulation), to establish a maximum civil pen-
 17 alty of \$86,156, which shall be adjusted for inflation in
 18 the same manner and to the same extent as civil monetary
 19 penalties under the Federal Civil Penalties Inflation Ad-
 20 justment Act of 1990 (28 U.S.C. 2461 note).

