

116TH CONGRESS
2D SESSION

S. 4647

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

SEPTEMBER 22, 2020

Mrs. FISCHER 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 2020”.

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

7 Title II of the Packers and Stockyards Act, 1921,
8 is amended by inserting after section 223 (7 U.S.C. 198b)
9 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 30 days after the

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

3 “(9) PACKER.—The term ‘packer’, with respect
4 to a contract, means a packer that slaughters cattle
5 at 1 or more federally inspected processing plants,
6 each of which—

7 “(A) slaughters an average of not less than
8 125,000 head of cattle per year during the 5
9 calendar years immediately preceding the date
10 on which the contract is executed; or

11 “(B) has not slaughtered cattle during
12 those immediately preceding 5 calendar years
13 but has the capacity to slaughter not less than
14 125,000 head of cattle per year, as determined
15 by the Secretary.

16 “(10) PRODUCER.—The term ‘producer’ means
17 a person engaged, directly or through an inter-
18 mediary, in the business of selling cattle to a packer
19 for slaughter.

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

22 “(12) TYPE OF CONTRACT.—

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

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

3 “(ii) by determining the base price of
4 the cattle.

5 “(B) CATEGORIES.—The categories for
6 classification of a type of contract are the fol-
7 lowing:

8 “(i) Formula marketing arrangement.

9 “(ii) Forward contract.

10 “(iii) Negotiated grid purchase con-
11 tract.

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

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

21 “(b) INFORMATION COLLECTION.—

22 “(1) IN GENERAL.—To maintain the library or
23 catalog established under subsection (a), the Sec-
24 retary shall obtain information from each packer on
25 each type of existing contract of the packer by re-

1 quiring a filing or other form of information submis-
 2 sion from each packer.

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

7 “(A) the type of contract; and

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

13 “(c) AVAILABILITY OF INFORMATION.—

14 “(1) IN GENERAL.—The Secretary shall make
 15 available to producers and other interested persons
 16 information on the types of contracts in the library
 17 or catalog established under subsection (a), includ-
 18 ing notice (on a real-time basis, if practicable) of the
 19 types of contracts that are being offered by packers
 20 to, and are open to acceptance by, producers for the
 21 purchase of fed cattle.

22 “(2) MONTHLY REPORT.—

23 “(A) IN GENERAL.—Beginning 30 days
 24 after the library or catalog is established under
 25 subsection (a), the Secretary shall make the in-

1 formation obtained each month in the library or
2 catalog available in a monthly report to pro-
3 ducers and other interested persons.

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

6 “(i) an estimate by the Secretary of
7 the total number of fed cattle committed
8 under contracts for delivery to packers
9 within the 6-month and 12-month periods
10 following the date of the report, organized
11 by reporting region and type of contract;
12 and

13 “(ii) an estimate by the Secretary of
14 the total maximum number of fed cattle
15 that may be delivered within the 6-month
16 and 12-month periods following the date of
17 the report, based on the provisions de-
18 scribed in subsection (c)(2)(B) in existing
19 contracts, organized by reporting region
20 and type of contract.

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

1 “(e) CONFIDENTIALITY.—The reporting require-
 2 ments for packers under this section shall be subject to
 3 the confidentiality protections provided under section 251
 4 of the Agricultural Marketing Act of 1946 (7 U.S.C.
 5 1636).

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

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

10 “(2) to comply with any other requirement of
 11 this section.

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

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

16 Title II of the Packers and Stockyards Act, 1921 (7
 17 U.S.C. 191 et seq.) (as amended by section 2), is amended
 18 by adding at the end the following:

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

21 **“SEC. 241. DEFINITIONS.**

22 “In this subtitle:

23 “(1) NEGOTIATED GRID PURCHASE.—The term
 24 ‘negotiated grid purchase’ means a purchase of cat-
 25 tle 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 cattle are scheduled for delivery
5 to the packer not more than 14 days after the
6 date on which the agreement for purchase is
7 made.

8 “(2) NEGOTIATED PURCHASE.—The term ‘ne-
9 gotiated purchase’ means a purchase of cattle (com-
10 monly known as a ‘cash’ or ‘spot market’ purchase)
11 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 cattle are scheduled for delivery
17 to the packer not more than 30 days after the
18 date on which the agreement for purchase is
19 made.

20 “(3) PACKER.—The term ‘packer’ does not in-
21 clude a packer that owns only 1 livestock processing
22 plant.

23 “(4) PRODUCER.—The term ‘producer’ has the
24 meaning given the term in section 212 of the Agri-
25 cultural Marketing Act of 1946 (7 U.S.C. 1635a).

1 “(5) REGIONAL MANDATORY MINIMUM.—The
 2 term ‘regional mandatory minimum’ means, for each
 3 reporting region (as designated by the Agricultural
 4 Marketing Service), of the quantity of cattle pur-
 5 chased for slaughter by a packer in that region each
 6 slaughter week, the minimum percentage of such
 7 cattle that is required to be purchased through nego-
 8 tiated purchases or negotiated grid purchases from
 9 producers.

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

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

15 “(a) IN GENERAL.—Not later than 1 year after the
 16 date of enactment of this subtitle, the Secretary shall es-
 17 tablish regional mandatory minimums for the purpose of
 18 enhancing price discovery and transparency for cattle
 19 market participants.

20 “(b) PUBLIC INPUT.—In carrying out subsection (a),
 21 the Secretary shall make each proposed regional manda-
 22 tory minimum subject to a notice and comment period.

23 “(c) CONSIDERATIONS.—In carrying out subsection
 24 (a) for each reporting region, the Secretary shall consider
 25 the following factors:

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

3 “(2) The availability of cattle in the reporting
4 region.

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

7 “(d) ENFORCEMENT.—On establishing regional man-
8 datory minimums under subsection (a), the Secretary
9 shall—

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

12 “(2) enforce this section in accordance with sec-
13 tion 203.”.

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) DAILY REPORTING.—Section 222(c)(1) of the
20 Agricultural Marketing Act of 1946 (7 U.S.C.
21 1635e(c)(1)) is amended by adding at the end the fol-
22 lowing:

23 “(E) Packer purchase commitments, which
24 shall be equal to the number of cattle, orga-
25 nized by cattle type, scheduled for delivery to a

1 packer for slaughter for each of the next 14 cal-
2 endar days.”.

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

4 Section 251(a) of the Agricultural Marketing Act of
5 1946 (7 U.S.C. 1636(a)) is amended—

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

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

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

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

16 “(2) EFFECT.—Nothing in this section permits
17 the Secretary, or any officer or employee of the Sec-
18 retary, to withhold from the public the information,
19 statistics, and documents described in paragraph
20 (1).”.

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