

Calendar No. 437

117TH CONGRESS
2D SESSION**S. 4030**

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

APRIL 7, 2022

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

JULY 11, 2022

Reported by Ms. STABENOW, with an amendment

[Insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cattle Price Discovery
3 and Transparency Act of 2022”.

4 **SEC. 2. DEFINITIONS.**

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

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

9 (2) by redesignating paragraphs (1) through
10 (14) as paragraphs (2), (3), (4), (6) through (8),
11 (10), and (12) through (18), respectively;

12 (3) by inserting before paragraph (2) (as so re-
13 designated) the following:

14 “(1) APPROVED PRICING MECHANISM.—The
15 term ‘approved pricing mechanism’ means a pur-
16 chase of fed cattle made—

17 “(A) through a negotiated purchase;

18 “(B) through a negotiated grid purchase;

19 “(C) at a stockyard (as defined in section
20 302 of the Packers and Stockyards Act, 1921
21 (7 U.S.C. 202)); or

22 “(D) through a trading system or platform
23 for the purchase or sale of cattle, or for an ar-
24 rangement to purchase or sell cattle, through
25 any means in which multiple buyer and seller
26 participants have the ability to, and regularly

1 and consistently, make and accept bids and of-
 2 fers on or at the trading system or platform.”;

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

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

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

12 “(9) MANDATORY MINIMUM.—The term ‘man-
 13 datory minimum’ means, of the quantity of fed cat-
 14 tle purchased for slaughter by a covered packer (as
 15 defined in section 221) for each processing plant,
 16 the minimum percentage of such cattle that are re-
 17 quired to be purchased through approved pricing
 18 mechanisms from producers that are not packers.”;
 19 and

20 (6) by inserting after paragraph (10) (as so re-
 21 designated) the following:

22 “(11) NEGOTIATED GRID PURCHASE.—The
 23 term ‘negotiated grid purchase’, with respect to cat-
 24 tle, means a purchase—

1 “(A) involving the negotiation of a base
 2 price from which premiums are added and dis-
 3 counts are subtracted, determined by seller-
 4 buyer interaction and agreement on a delivery
 5 day; and

6 “(B) under which the cattle are scheduled
 7 for delivery to the packer not later than 14
 8 days after the date on which the cattle are com-
 9 mitted to the packer.”.

10 (b) CATTLE REPORTING DEFINITIONS.—Section 221
 11 of the Agricultural Marketing Act of 1946 (7 U.S.C.
 12 1635d) is amended—

13 (1) in paragraph (1), by striking “7-day” and
 14 inserting “14-day”;

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

17 (3) by redesignating paragraphs (3), (4), (5),
 18 (6), (7), and (8) as paragraphs (5), (6), (8), (9),
 19 (11), and (12), respectively;

20 (4) by inserting after paragraph (2) the fol-
 21 lowing:

22 “(3) COVERED CONTRACT.—

23 “(A) IN GENERAL.—The term ‘covered
 24 contract’ means any agreement, written or oral,

1 between a packer and a producer for the pur-
2 chase of fed cattle for slaughter.

3 “(B) EXCLUSION.—The term ‘covered con-
4 tract’ does not include a contract for a nego-
5 tiated purchase.

6 “(4) COVERED PACKER.—The term ‘covered
7 packer’ means a packer that has slaughtered during
8 the immediately preceding 5 calendar years an aver-
9 age of not less than 5 percent of the number of fed
10 cattle slaughtered nationally during the immediately
11 preceding 5 calendar years.”;

12 (5) by inserting after paragraph (6) (as so re-
13 designated) the following:

14 “(7) HEIFER.—The term ‘heifer’ means a bo-
15 vine female that has not given birth to a calf.”; and

16 (6) by inserting after paragraph (9) (as so re-
17 designated) the following:

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

20 **SEC. 3. 14-DAY CATTLE SLAUGHTER REPORT.**

21 Section 222(c) of the Agricultural Marketing Act of
22 1946 (7 U.S.C. 1635e(c)) is amended—

23 (1) in paragraph (1)—

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

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

3 (2) in paragraph (2), by striking “the informa-
4 tion” and inserting “information reported under this
5 subsection”;

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

8 (4) by inserting after paragraph (1) the fol-
9 lowing:

10 “(2) PRIOR DAY REPORTING.—

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

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

1 **SEC. 4. EXPEDITED CARCASS WEIGHTS REPORTING.**

2 Section 222 of the Agricultural Marketing Act of
3 1946 (7 U.S.C. 1635e) is amended by adding at the end
4 the following:

5 “(f) EXPEDITED CARCASS WEIGHTS.—

6 “(1) DETERMINATION.—Not later than 180
7 days after the date of enactment of the Cattle Price
8 Discovery and Transparency Act of 2022, the Sec-
9 retary shall determine the minimum amount of time
10 needed by the Secretary to publicly report the daily
11 average carcass weight of cattle slaughtered by pack-
12 er processing plants.

13 “(2) REPORTING.—Not later than 180 days
14 after the Secretary has made a determination under
15 paragraph (1), the Secretary shall begin publicly re-
16 porting the information described in that paragraph
17 within the time determined under that paragraph.”.

18 **SEC. 5. MANDATORY REPORTING OF CUTOUT YIELD.**

19 Section 223 of the Agricultural Marketing Act of
20 1946 (7 U.S.C. 1635f) is amended—

21 (1) in subsection (a)—

22 (A) in the subsection heading, by striking
23 “DAILY REPORTING” and inserting “IN GEN-
24 ERAL”;

25 (B) in paragraph (3)—

1 (i) in subparagraph (C), by striking
 2 the period at the end and inserting “;
 3 and”; and

4 (ii) by redesignating subparagraphs
 5 (A) through (C) as clauses (i) through
 6 (iii), respectively, and indenting appro-
 7 priately;

8 (C) by redesignating paragraphs (1)
 9 through (3) as subparagraphs (A) through (C),
 10 respectively, and indenting appropriately;

11 (D) in the matter preceding subparagraph
 12 (A) (as so redesignated), by striking “Secretary
 13 at least” and inserting the following: “Sec-
 14 retary—

15 “(1) at least”; and

16 (E) by adding at the end the following:

17 “(2) at least once each year, at a time deter-
 18 mined by the Secretary, cutout yield data.”; and

19 (2) in subsection (b)—

20 (A) by striking “the information required
 21 to be reported under subsection (a)”; and

22 (B) by striking “day.” and inserting the
 23 following: “day—

24 “(1) the information required to be reported
 25 under subsection (a)(1); and

1 “(2) a composite price using the information re-
 2 quired to be reported under paragraphs (1) and (2)
 3 of subsection (a).”.

4 **SEC. 6. CATTLE CONTRACT LIBRARY.**

5 The Agricultural Marketing Act of 1946 is amend-
 6 ed—

7 (1) by redesignating section 223 (7 U.S.C.
 8 1635f) as section 224; and

9 (2) by inserting after section 222 (7 U.S.C.
 10 1635e) the following:

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

12 “(a) IN GENERAL.—Not later than 120 days after
 13 the date of enactment of the Cattle Price Discovery and
 14 Transparency Act of 2022, the Secretary shall establish
 15 and maintain, through the Livestock Mandatory Price Re-
 16 porting program, a library or catalog (referred to in this
 17 section as the ‘library’), of each type of covered contract
 18 entered into between packers and producers for the pur-
 19 chase of fed cattle (including cattle that are purchased or
 20 committed for delivery), including any schedules of pre-
 21 miums or discounts associated with the covered contract.

22 “(b) INFORMATION COLLECTION.—

23 “(1) IN GENERAL.—To maintain the library,
 24 the Secretary shall obtain information from each
 25 packer on each type of existing covered contract of

1 the packer by requiring a filing or other form of in-
2 formation submission from each packer.

3 “(2) CONTRACT INFORMATION.—Information
4 submitted to the Secretary by a packer under para-
5 graph (1) shall include, with respect to each existing
6 covered contract of a packer—

7 “(A) the type of contract;

8 “(B) the duration of the contract;

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

10 “(D) provisions in the contract that may
11 affect the price of cattle covered by the con-
12 tract, including schedules, premiums and dis-
13 counts, financing and risk-sharing arrange-
14 ments, and transportation arrangements;

15 “(E) the total number of cattle covered by
16 the contract solely committed to the packer
17 each week within the 6-month and 12-month
18 periods following the date of the contract and
19 the percentage of cattle each week that may
20 vary for delivery or nondelivery at the discretion
21 of the packer, organized by reporting region or
22 in such other manner as the Secretary may de-
23 termine;

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 or requirements on the
8 number of cattle that may be delivered to
9 the packer under the contract, including
10 the percentage of cattle that may vary for
11 delivery or nondelivery in a given time pe-
12 riod at the discretion of the packer; and

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

18 “(c) AVAILABILITY OF INFORMATION.—

19 “(1) IN GENERAL.—The Secretary shall make
20 publicly available to producers and other interested
21 persons information (including the information de-
22 scribed in subsection (b)(2)), in a user-friendly for-
23 mat, on the types of covered contracts in the library,
24 including notice (on a real-time basis, if practicable)
25 of the types of covered contracts that are entered

1 into between packers and producers for the purchase
2 of fed cattle.

3 “(2) MONTHLY REPORT.—

4 “(A) IN GENERAL.—Beginning 30 days
5 after the library is established, the Secretary
6 shall make the information obtained each
7 month in the library available in a monthly re-
8 port to producers and other interested persons.

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

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

19 “(ii) based on the information col-
20 lected under subsection (b)(2)(F), the
21 number of covered contracts with an open
22 commitment and any weekly, monthly, an-
23 nual, or other limitations or requirements
24 on the number of cattle that may be deliv-
25 ered under such contracts, including the

1 percentage of cattle that may vary for de-
2 livery or nondelivery in a given time period
3 at the discretion of the packer; and

4 “(iii) based on the information col-
5 lected under subsection (b)(2)(G), an esti-
6 mate by the Secretary of the total max-
7 imum number of fed cattle that may be de-
8 livered within the 6-month and 12-month
9 periods following the date of the report, or-
10 ganized by reporting region and type of
11 contract.

12 “(d) MAINTENANCE OF LIBRARY.—Information in
13 the library about types of contracts that are no longer of-
14 fered or in use shall be removed from the library.

15 “(e) CONFIDENTIALITY.—The reporting require-
16 ments for packers under this section shall be subject to
17 the confidentiality protections provided under section 251.

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

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

22 “(2) to comply with any other requirement of
23 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 **SEC. 7. MARKET ACQUISITION OF FED CATTLE.**

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

7 (1) all participants in the fed cattle market
 8 have a responsibility to contribute to sufficient levels
 9 of negotiated trade of fed cattle in all cattle feeding
 10 regions in order to achieve competitive bidding and
 11 maximum transparency in all relevant markets and
 12 robust price discovery for the benefit of all market
 13 participants;

14 (2) covered packers that use negotiated market
 15 prices or internal formulations thereof as the basis
 16 for formula marketing arrangements may have in-
 17 centives to not participate in price discovery in fed
 18 cattle markets, including in order to influence the
 19 price, especially if the majority of the cattle pur-
 20 chases are under fed cattle formula marketing ar-
 21 rangements under which it is particularly important
 22 to have minimum participation; and

23 (3) the Department of Agriculture should exam-
 24 ine academic literature regarding minimum levels of
 25 negotiated transactions necessary to achieve robust

1 price discovery, eliminate the potential for price ma-
 2 nipulation, and enhance cattle producer leverage in
 3 the marketplace in each of the cattle marketing re-
 4 gions.

5 (b) PENALTIES.—Section 253(a) of the Agricultural
 6 Marketing Act of 1946 (7 U.S.C. 1636b(a)) is amended—

7 (1) in paragraph (1)—

8 (A) by striking the paragraph designation
 9 and heading and all that follows through “Any
 10 packer” and inserting the following:

11 “(1) PENALTY AMOUNT.—

12 “(A) IN GENERAL.—Except as provided in
 13 subparagraph (B), any packer”; and

14 (B) by adding at the end the following:

15 “(B) MANDATORY MINIMUM VIOLATION.—

16 Any packer or other person that violates section
 17 259 may be assessed a civil penalty by the Sec-
 18 retary of not more than \$90,000 for each viola-
 19 tion (as adjusted for inflation).”; and

20 (2) in paragraph (2)—

21 (A) by striking “Each day” and inserting
 22 the following:

23 “(A) IN GENERAL.—Except as provided in
 24 subparagraph (B), each day”; and

25 (B) by adding at the end the following:

1 “(B) MANDATORY MINIMUM VIOLATION.—
 2 Each week during which a violation of section
 3 259 continues shall be considered to be a sepa-
 4 rate violation.”.

5 (c) MANDATORY MINIMUMS.—The Agricultural Mar-
 6 keting Act of 1946 is amended—

7 (1) by redesignating sections 259 and 260 (7
 8 U.S.C. 1636h, 1636i) as sections 260 and 261, re-
 9 spectively; and

10 (2) by inserting after section 258 (7 U.S.C.
 11 1636g) the following:

12 **“SEC. 259. MANDATORY MINIMUMS.**

13 “(a) PURPOSE.—The purpose of this section is to es-
 14 tablish mandatory minimums—

15 “(1) to enhance price discovery, transparency,
 16 and cattle producer leverage for cattle market par-
 17 ticipants; and

18 “(2) to minimize and mitigate conflicts of inter-
 19 est and other incentives for a covered packer to in-
 20 fluence the base price of formula marketing arrange-
 21 ments for the benefit of the covered packer through
 22 action or inaction in the market in which the base
 23 price is determined.

24 “(b) ESTABLISHMENT.—

1 “(1) IN GENERAL.—Not later than 2 years
2 after the date of enactment of the Cattle Price Dis-
3 covery and Transparency Act of 2022, the Secretary
4 shall establish—

5 “(A) 5 to 7 contiguous regions (referred to
6 in this section as ‘covered regions’) that—

7 “(i) together encompass the entire
8 continental United States; and

9 “(ii) to the extent practicable, reason-
10 ably reflect similar fed cattle purchase
11 practices;

12 “(B) a mandatory minimum—

13 “(i) for each covered region estab-
14 lished under subparagraph (A); and

15 “(ii) that shall be applicable with re-
16 spect to each processing plant of a covered
17 packer located in that covered region; and

18 “(C) a time period within which a covered
19 packer shall be required to meet the applicable
20 mandatory minimum, which shall be not less
21 than 1 week but not more than 30 days.

22 “(2) MODIFICATIONS.—The Secretary—

23 “(A) shall review the mandatory minimums
24 established under paragraph (1) not later than
25 2 years after the date of establishment and pe-

1 riodically thereafter, but not less frequently
2 than once every 5 years; and

3 “(B) modify any such mandatory min-
4 imum, as necessary, after consulting with rep-
5 resentatives of the United States cattle and beef
6 industry and in accordance with paragraph (4).

7 “(3) PUBLIC INPUT.—In carrying out this sub-
8 section, the Secretary shall make all proposed man-
9 datory minimums subject to notice and comment
10 rulemaking and a cost-benefit analysis.

11 “(4) CONSIDERATIONS.—In establishing or
12 modifying mandatory minimums under this sub-
13 section for any covered region, the Secretary shall
14 consider the following factors:

15 “(A) The number of covered packers in the
16 covered region.

17 “(B) The availability of fed cattle in the
18 covered region.

19 “(C) Pre-existing contractual arrange-
20 ments of packers in the covered region.

21 “(D) The number of pricing transactions
22 (pens of cattle sold) in the covered region.

23 “(E) The proportion of fed cattle pur-
24 chased in the covered region through negotiated
25 purchases or negotiated grid purchases relative

1 to the number of formula marketing arrange-
 2 ments that use the negotiated prices or nego-
 3 tiated grid prices as base prices.

4 “(5) INITIAL MANDATORY MINIMUM REQUIRE-
 5 MENT.—The initial mandatory minimum established
 6 under paragraph (1)(B) for each covered region
 7 shall be—

8 “(A) not less than the average percentage
 9 of negotiated purchases and negotiated grid
 10 purchases made in that covered region between
 11 January 1, 2020, and January 1, 2022; and

12 “(B) not more than 50 percent.

13 “(c) PURCHASES.—A covered packer shall, with re-
 14 spect to each processing plant of the covered packer, pur-
 15 chase through an approved pricing mechanism not less
 16 than the percentage of fed cattle required under the man-
 17 datory minimum established under subsection (b) for the
 18 covered region in which the processing plant is located.

19 “(d) ENFORCEMENT.—

20 “(1) IN GENERAL.—On establishing mandatory
 21 minimums under subsection (b), the Secretary—

22 “(A) shall regularly monitor compliance by
 23 covered packers with those mandatory mini-
 24 mums; and

1 “(B) in the case of noncompliance by a
 2 covered packer in a given period, may allow the
 3 covered packer to remedy the noncompliance by
 4 purchasing the applicable shortfall in the ap-
 5 proved pricing mechanism in 1 or more subse-
 6 quent periods, subject to paragraph (2).

7 “(2) NONREMEDY.—The Secretary shall not
 8 allow a covered packer to remedy noncompliance
 9 under paragraph (1)(B) if the covered packer has a
 10 pattern or practice of noncompliance, as determined
 11 by the Secretary.

12 “(e) EFFECT ON PREMIUMS.—Nothing in this sec-
 13 tion prohibits a formula marketing arrangement from in-
 14 cluding a premium in addition to the base price, including
 15 a premium for meat quality, consistency, breed, produc-
 16 tion method, branding, or any other value-added effort.”.

17 **SEC. 8. ALTERNATIVE MARKETING ARRANGEMENTS FEASI-**
 18 **BILITY REPORT.**

19 *Not later than 180 days after the date of enactment*
 20 *of this Act, the Secretary of Agriculture, acting through the*
 21 *Administrator of the Agricultural Marketing Service, shall*
 22 *publish a report analyzing the feasibility of alternative*
 23 *marketing arrangements with a base price tied to the price*
 24 *of boxed beef, which shall include information on—*

1 (1) *the benefits and limitations of such alter-*
 2 *native marketing arrangements;*

3 (2) *barriers limiting adoption of such alternative*
 4 *marketing arrangements;*

5 (3) *potential educational needs relating to the*
 6 *use of such alternative marketing arrangements for*
 7 *industry participants; and*

8 (4) *risk management needs to increase the adop-*
 9 *tion and facilitate the ongoing delivery of benefits of*
 10 *such alternative marketing arrangements to industry*
 11 *participants.*

12 **SEC. 9. MODIFICATIONS TO LIVESTOCK MANDATORY RE-**
 13 **PORTING REGIONS.**

14 *Not later than 1 year after the date of enactment of*
 15 *this Act, the Secretary of Agriculture, acting through the*
 16 *Administrator of the Agricultural Marketing Service, shall*
 17 *realign the livestock mandatory reporting regions estab-*
 18 *lished pursuant to subtitle B of the Agricultural Marketing*
 19 *Act of 1946 (7 U.S.C. 1635 et seq.) by—*

20 (1) *modifying the existing Colorado cattle report-*
 21 *ing region to include the State of Wyoming; and*

22 (2) *modifying the existing Iowa-Minnesota cattle*
 23 *reporting region to include the States of Illinois and*
 24 *South Dakota.*

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A BILL

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Reported with an amendment