

117TH CONGRESS  
1ST SESSION

# H. R. 5992

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2021

Mrs. AXNE (for herself, Mr. FEENSTRA, Mrs. HINSON, Mrs. MILLER-MEEKS, Mrs. HARTZLER, and Mr. FORTENBERRY) introduced the following bill; which was referred to the Committee on Agriculture

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## 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—

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

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

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

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

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

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

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

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

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

1           “(14) 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 (as defined in sec-  
6           tion 259(a)) in that region each current slaughter  
7           week, the minimum percentage of such cattle that  
8           are required to be purchased through negotiated  
9           purchases or negotiated grid purchases from pro-  
10          ducers.”.

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

14           (1) by striking paragraph (3) and inserting the  
15          following:

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

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

22                   “(B) using a method for calculating  
23                   price—

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

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

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

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

12 (4) by inserting after paragraph (2) the fol-  
 13 lowing:

14 “(3) CONTRACT.—

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

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

22 (5) by inserting after paragraph (5) (as so re-  
 23 designated) the following:

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

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

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

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

8 “(11) TYPE OF CONTRACT.—

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

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

14 “(ii) by determining the base price of  
15 the cattle.

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

19 “(i) Formula marketing arrangement.

20 “(ii) Forward contract.

21 “(iii) Negotiated grid purchase con-  
22 tract.”.

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

24 (a) DEFINITION OF CATTLE COMMITTED.—Section  
25 221(1) of the Agricultural Marketing Act of 1946 (7

1 U.S.C. 1635d(1)) is amended by striking “7-day” and in-  
2 serting “14-day”.

3 (b) MANDATORY REPORTING FOR LIVE CATTLE.—  
4 Section 222(c) of the Agricultural Marketing Act of 1946  
5 (7 U.S.C. 1635e(c)) is amended—

6 (1) in paragraph (1)—

7 (A) by striking subparagraphs (B) and  
8 (C); and

9 (B) by redesignating subparagraph (D) as  
10 subparagraph (B);

11 (2) in paragraph (2), by striking “the informa-  
12 tion” and inserting “information reported under this  
13 subsection”;

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

16 (4) by inserting after paragraph (1) the fol-  
17 lowing:

18 “(2) PRIOR DAY REPORTING.—

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

1           mation from the prior business day described in  
2           subparagraph (B).

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

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

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

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

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

20           “(f) EXPEDITED CARCASS WEIGHTS.—

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

1 average carcass weight of cattle slaughtered by pack-  
 2 er processing plants.

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

8 **SEC. 6. CATTLE CONTRACT LIBRARY.**

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

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

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

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

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

25 “(b) INFORMATION COLLECTION.—



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

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

11                 “(A) the type of contract;

12                 “(B) the duration of the contract;

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

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

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

23                 “(F) in the case of a contract in which a  
24                 specific number of cattle are not solely com-  
25                 mitted to the packer—

1 “(i) an indication that the contract is  
2 an open commitment; and

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

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

12 “(c) AVAILABILITY OF INFORMATION.—

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

23 “(2) MONTHLY REPORT.—

24 “(A) IN GENERAL.—Beginning 30 days  
25 after the library or catalog is established under

1 subsection (a), the Secretary shall make the in-  
2 formation obtained each month in the library or  
3 catalog available in a monthly report to pro-  
4 ducers and other interested persons.

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

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

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

22 “(iii) based on the information col-  
23 lected under subsection (b)(2)(G), an esti-  
24 mate by the Secretary of the total max-  
25 imum number of fed cattle that may be de-

1                   livered within the 6-month and 12-month  
2                   periods following the date of the report, or-  
3                   ganized by reporting region and type of  
4                   contract.

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

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

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

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

17               “(2) to comply with any other requirement of  
18   this section.

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

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

23          Section 251(a) of the Agricultural Marketing Act of  
24   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).”.

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

17          (a) SENSE OF THE HOUSE OF REPRESENTATIVES.—

18 It is the sense of the House of Representatives that—

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

24           (2) the Department of Agriculture should exam-  
 25           ine existing academic literature regarding minimum

1 levels of cash transactions necessary to achieve ro-  
2 bust price discovery and enhance cattle producer le-  
3 verage in the marketplace in each of the cattle mar-  
4 keting regions.

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

8 (1) by redesignating sections 259 and 260 as  
9 sections 260 and 261, respectively; and

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

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

14 **“(a) DEFINITION OF PACKER.—**

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

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

21 **“(b) ESTABLISHMENT.—**

22 **“(1) IN GENERAL.—**Not later than 2 years  
23 after the date of enactment of the Cattle Price Dis-  
24 covery and Transparency Act of 2021, the Secretary,

1 in consultation with the Chief Economist, shall es-  
2 tablish—

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

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

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

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

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

23 “(e) CONSIDERATIONS.—In carrying out subsection  
24 (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).

○