

117TH CONGRESS
1ST SESSION

H. R. 3766

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2021

Mrs. HARTZLER (for herself and Mr. CLEAVER) introduced the following bill;
which was referred to the Committee on Agriculture

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 “Optimizing the Cattle
5 Market Act of 2021”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of the Congress that there is a need
8 for expedited reauthorization of the Livestock Mandatory
9 Reporting program of the Department of Agriculture, in-
10 cluding formula base prices subject to the same reporting

1 requirements as negotiated cash and the creation of a con-
 2 tract library.

3 **SEC. 3. CATTLE CONTRACT LIBRARY.**

4 (a) IN GENERAL.—Title II of the Packers and Stock-
 5 yards Act, 1921, is amended by inserting after section 223
 6 (7 U.S.C. 198b) the following:

7 **“Subtitle C—Cattle Contracts**

8 **“SEC. 231. DEFINITIONS.**

9 “In this subtitle:

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

15 “(2) CONTRACT.—

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

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

24 “(3) FED CATTLE.—The term ‘fed cattle’
 25 means a steer or heifer that has been finished on a

1 ration of roughage and feed concentrates, such as
2 grains, protein meal, grass (forage), and other nutri-
3 ent-rich feeds, prior to slaughter.

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

7 “(A) by any means other than through a
8 negotiated purchase, negotiated grid purchase,
9 or forward contract; and

10 “(B) using a method for calculating
11 price—

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

14 “(ii) the basis of which is a price es-
15 tablished for a specified market, which
16 may be based on any publicly reported
17 price, including plant average price, re-
18 gional price, downstream price, or some
19 other mutually agreeable price source; and

20 “(iii) that may include a grid or
21 nongrid price.

22 “(5) FORWARD CONTRACT.—The term ‘forward
23 contract’ means—

24 “(A) an agreement for the purchase of fed
25 cattle, executed in advance of slaughter, under

1 which the base price is established by reference
2 to—

3 “(i) prices quoted on the Chicago
4 Mercantile Exchange; or

5 “(ii) other comparable publicly avail-
6 able prices; or

7 “(B) any other contract for the purchase
8 of fed cattle, executed in advance of slaughter,
9 as determined by the Secretary.

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

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

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

18 “(B) the cattle are scheduled for delivery
19 to the packer not more than 14 days after the
20 date on which the agreement for purchase is
21 made.

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

1 “(A) the buyer-seller interaction that re-
2 sults in the purchase and the agreement on the
3 actual base price for the purchase occur on the
4 same day; and

5 “(B) the cattle are scheduled for delivery
6 to the packer not more than 30 days after the
7 date on which the agreement for purchase is
8 made.

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

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

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

17 “(12) TYPE OF CONTRACT.—

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

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

23 “(ii) by determining the base price of
24 the cattle.

1 “(B) CATEGORIES.—The categories for
2 classification of a type of contract are the fol-
3 lowing:

4 “(i) Formula marketing arrangement.

5 “(ii) Forward contract.

6 “(iii) Negotiated grid purchase con-
7 tract.

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

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

17 “(b) INFORMATION COLLECTION.—

18 “(1) IN GENERAL.—To maintain the library or
19 catalog established under subsection (a), the Sec-
20 retary shall obtain information from each packer on
21 each type of existing contract of the packer by re-
22 quiring a filing or other form of information submis-
23 sion from each packer.

24 “(2) CONTRACTED CATTLE NUMBERS.—Infor-
25 mation that shall be submitted to the Secretary by

1 a packer under paragraph (1) shall include, with re-
2 spect to each existing contract of a packer—

3 “(A) the type of contract; and

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

9 “(c) AVAILABILITY OF INFORMATION.—

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

18 “(2) MONTHLY REPORT.—

19 “(A) IN GENERAL.—Beginning 30 days
20 after the library or catalog is established under
21 subsection (a), the Secretary shall make the in-
22 formation obtained each month in the library or
23 catalog available in a monthly report to pro-
24 ducers and other interested persons.

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

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

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

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

23 “(e) EDUCATIONAL OUTREACH ACTIVITIES.—The
24 Secretary shall conduct educational outreach activities for

1 producers on how best to use the cattle contract library
2 or catalog established under subsection (a).

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

8 “(g) VIOLATIONS.—It shall be unlawful and a viola-
9 tion of this Act for any packer to willfully fail or refuse—
10 “(1) to provide to the Secretary accurate infor-
11 mation required under this section; or

12 “(2) to comply with any other requirement of
13 this section.

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

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

21 **SEC. 4. CASH MARKET ACQUISITION OF CATTLE.**

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

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

“SEC. 241. DEFINITIONS.

“In this subtitle:

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

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

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

“(2) NEGOTIATED PURCHASE.—The term ‘negotiated purchase’ means a purchase of cattle (commonly known as a ‘cash’ or ‘spot market’ purchase) by a packer from a producer under which—

“(A) the buyer-seller interaction that results in the purchase and the agreement on the actual base price for the purchase occur on the same day; and

“(B) the cattle are scheduled for delivery to the packer not more than 30 days after the

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

3 “(3) PACKER.—The term ‘packer’—

4 “(A) has the meaning given the term in
5 section 221 of the Agricultural Marketing Act
6 of 1946 (7 U.S.C. 1635d); and

7 “(B) for calendar years beginning on or
8 after January 1, 2022, includes only a feder-
9 ally-inspected cattle processing plant that
10 slaughtered an average of 125,000 head of cat-
11 tle per year during the immediately preceding 5
12 calendar years.

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

16 “(5) REGIONAL MANDATORY MINIMUM.—The
17 term ‘regional mandatory minimum’ means, for each
18 reporting region (as designated by the Agricultural
19 Marketing Service), of the number of transactions
20 and quantity of cattle purchased for slaughter by a
21 packer in that region each slaughter week, the min-
22 imum number of such transactions and the min-
23 imum percentage of such cattle, respectively, that
24 are required to be purchased through negotiated

1 purchases or negotiated grid purchases from pro-
2 ducers.

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

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

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

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

14 “(2) methods for establishing those regional
15 mandatory minimums, which shall be publicly avail-
16 able.

17 “(b) DURATION.—Regional mandatory minimums es-
18 tablished for each reporting region under subsection
19 (a)(1)—

20 “(1) may be weekly or on another periodic
21 basis, as determined by the Secretary;

22 “(2) shall account for improbable events with
23 profound consequences (commonly referred to as
24 ‘black swan events’); and

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

3 “(c) PUBLIC INPUT.—In carrying out subsection (a),
4 the Secretary shall make all proposed regional mandatory
5 minimums and proposed methods for establishing those
6 minimums subject to a notice and comment period.

7 “(d) CONSIDERATIONS.—In carrying out subsection
8 (a) for each reporting region, the Secretary, in consulta-
9 tion with the Chief Economist, shall consider the following
10 factors:

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

13 “(2) The availability of cattle in the reporting
14 region.

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

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

19 “(e) LAND-GRANT RESEARCH.—In carrying out sub-
20 section (a), the Secretary, in consultation with the Chief
21 Economist, shall take into account relevant research con-
22 ducted by land-grant colleges and universities (as defined
23 in section 1404 of the National Agricultural Research, Ex-
24 tension, and Teaching Policy Act of 1977 (7 U.S.C.
25 3103)).

1 “(f) BIENNIAL REVIEW.—On establishing regional
2 mandatory minimums under subsection (a)(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) may, in consultation with the Chief Econo-
8 mist, modify the regional mandatory minimums
9 after—

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

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

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

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

19 “(2) enforce this section in accordance with sec-
20 tion 203.

21 “(h) COST-BENEFIT ANALYSIS.—Not later than 3
22 years after establishing regional mandatory minimums
23 under subsection (a)(1), the Secretary, in consultation
24 with the Chief Economist, shall conduct a quantifiable,

1 data-driven cost-benefit analysis regarding the operation
2 and effect of those regional mandatory minimums.”.

3 **SEC. 5. 14-DAY CATTLE SLAUGHTER.**

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

8 (b) MANDATORY REPORTING FOR LIVE CATTLE.—
9 Section 222(c) of the Agricultural Marketing Act of 1946
10 (7 U.S.C. 1635e(c)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking subparagraphs (B) and
13 (C); and

14 (B) by redesignating subparagraph (D) as
15 subparagraph (B);

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

18 (3) by inserting after paragraph (1) the fol-
19 lowing:

20 “(2) PRIOR DAY REPORTING.—

21 “(A) IN GENERAL.—The corporate officers
22 or officially designated representatives of each
23 packer processing plant shall report to the Sec-
24 retary, for each business day of the packer
25 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.”.

○