

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To improve protections for meatpacking workers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To improve protections for meatpacking workers, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Protecting America’s Meatpacking Workers Act of  
6 2021”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—REFORMS TO PROTECT MEAT AND POULTRY  
PROCESSING WORKERS

## 2

## Subtitle A—Department of Agriculture

Sec. 101. Rule on increased line speeds at meat and poultry establishments.

## Subtitle B—Fair Attendance Policies

- Sec. 111. Definitions.  
 Sec. 112. Requirements for employers relating to no fault attendance policies or attendance systems.  
 Sec. 113. Remedies and enforcement.  
 Sec. 114. Rulemaking.  
 Sec. 115. Relationship to other laws.  
 Sec. 116. Waiver of State immunity.  
 Sec. 117. Severability.

## Subtitle C—Occupational Safety and Health Administration Reforms

- Sec. 121. Definitions.  
 Sec. 122. Ensuring compliance with employee rights to use toilet facilities at covered establishments.  
 Sec. 123. Occupational safety and health standards to protect employees in covered establishments.  
 Sec. 124. Permanent regional emphasis inspection program; expanding inspections.  
 Sec. 125. Representatives during physical inspections.  
 Sec. 126. Enhanced protections from retaliation.  
 Sec. 127. Regulations to restore a column on required records of work-related musculoskeletal disorders.  
 Sec. 128. Funding for additional OSHA inspectors.  
 Sec. 129. OSHA reporting.  
 Sec. 130. Private right of action.  
 Sec. 131. Injunction proceedings.

## Subtitle D—Savings Provision

Sec. 136. Savings provision.

## TITLE II—FARM SYSTEM REFORMS

- Sec. 201. Expanded meat and poultry processing grants.  
 Sec. 202. Local Agriculture Market Program.  
 Sec. 203. Restoration of mandatory country of origin labeling for beef and pork; inclusion of dairy products.  
 Sec. 204. Definitions in Packers and Stockyards Act, 1921.  
 Sec. 205. Unlawful practices.  
 Sec. 206. Spot market purchases of livestock by packers.  
 Sec. 207. Investigation of live poultry dealers.  
 Sec. 208. Award of attorney fees.  
 Sec. 209. Technical amendments.

## TITLE III—GAO REPORTS

- Sec. 301. Review and report on fragility and national security in the food system.  
 Sec. 302. Review and report on racial and ethnic disparities in meat and poultry processing.  
 Sec. 303. GAO report on line speeds.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) meat and poultry slaughter and processing  
4 is a particularly dangerous occupation, with meat  
5 and poultry processing workers suffering injuries at  
6 measurably higher rates than workers in other pri-  
7 vate sector industries;

8 (2) meat and poultry processing workers face  
9 double the rate of amputations as the average work-  
10 er in private industry, and injuries such as sprains,  
11 lacerations, and contusions are common among poul-  
12 try workers;

13 (3) meat and poultry processing workers suffer  
14 from musculoskeletal injuries, such as carpal tunnel  
15 syndrome, “trigger finger”, tendinitis, rotator cuff  
16 injuries, lower back injuries, and chronic pain and  
17 numbness, in numbers that can exceed 50 percent of  
18 workers;

19 (4) higher line speeds in meat and poultry pro-  
20 cessing facilities is a recognized risk factor that leads  
21 to increased risk of both laceration and musculo-  
22 skeletal injuries;

23 (5) meat and poultry processing work was and  
24 continues to be particularly dangerous during the  
25 Coronavirus Disease 2019 (COVID–19) pandemic  
26 due to, among other factors—

1 (A) the easily transmissible nature of the  
2 virus via aerosol and droplet;

3 (B) the close proximity of meat processing  
4 workers;

5 (C) cold conditions inside meat processing  
6 facilities; and

7 (D) the pace and physical rigor of meat  
8 and poultry processing work;

9 (6) during the COVID–19 pandemic, covered  
10 establishments have implemented policies and proce-  
11 dures that have—

12 (A) increased workers’ risk of exposure to  
13 SARS–CoV–2;

14 (B) prioritized processing rates over work-  
15 er health and welfare; and

16 (C) caused a disparate adverse impact on  
17 Asian, Black, and Latino workers in the meat  
18 and poultry processing industry;

19 (7) enforcement of requirements of the Occupa-  
20 tional Safety and Health Administration in the meat  
21 and poultry processing industry has been fundamen-  
22 tally inadequate, especially during the COVID–19  
23 pandemic; and

1           (8) meat and poultry processing workers are  
2           subjected to exploitative conditions and abusive be-  
3           havior by employers—

4           (A) including—

5           (i) use of abusive and humiliating  
6           shouting by supervisors accusing workers  
7           of not working fast enough and harassing  
8           them to work “faster” and “harder”;

9           (ii) use of sexualized language to har-  
10          ass women workers to work “harder” and  
11          “faster”;

12          (iii) patterns of direct sexual harass-  
13          ment and incidents of sexual assault; and

14          (iv) little or no accountability or re-  
15          dress for emotional, sexualized, or psycho-  
16          logical abuse due to—

17               (I) weak enforcement of, and  
18               noncompliance with, discrimination  
19               protections; and

20               (II) meat and poultry processing  
21               workers not reporting the abuse due  
22               to fear of receiving more abuse, hav-  
23               ing their employment terminated, or  
24               being reported to immigration en-  
25               forcement; and

1 (B) that lead to long-term psychological  
2 impacts, including—

3 (i) increased feelings of anger and  
4 stress by workers pressured to work faster  
5 and more aggressively to slaughter animals  
6 on killing lines; and

7 (ii) episodes of panic and fear by  
8 workers who were required to continue  
9 working during COVID-19 outbreaks.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) COVERED ESTABLISHMENT.—The term  
13 “covered establishment” means—

14 (A) an official establishment (as defined in  
15 section 301.2 of title 9, Code of Federal Regu-  
16 lations (or successor regulations)) that is sub-  
17 ject to inspection under the Federal Meat In-  
18 spection Act (21 U.S.C. 601 et seq.); and

19 (B) an official establishment (as defined in  
20 section 381.1 of title 9, Code of Federal Regu-  
21 lations (or successor regulations)) that is sub-  
22 ject to inspection under the Poultry Products  
23 Inspection Act (21 U.S.C. 451 et seq.).

24 (2) COVERED PERIOD.—The term “covered pe-  
25 riod” means the period beginning on the date of en-

1 actment of this Act and ending on the date that is  
2 90 days after the date on which the COVID–19  
3 emergency is lifted.

4 (3) COVID–19 EMERGENCY.—The term  
5 “COVID–19 emergency” means the public health  
6 emergency declared by the Secretary of Health and  
7 Human Services under section 319 of the Public  
8 Health Service Act (42 U.S.C. 247d) on January  
9 31, 2020, with respect to COVID–19.

10 (4) EMPLOYEE; EMPLOYER.—Unless otherwise  
11 specified, the terms “employee” and “employer”  
12 have the meanings given those terms in section 3 of  
13 the Occupational Safety and Health Act of 1970 (29  
14 U.S.C. 652).

15 **TITLE I—REFORMS TO PROTECT**  
16 **MEAT AND POULTRY PROC-**  
17 **ESSING WORKERS**

18 **Subtitle A—Department of**  
19 **Agriculture**

20 **SEC. 101. RULE ON INCREASED LINE SPEEDS AT MEAT AND**  
21 **POULTRY ESTABLISHMENTS.**

22 (a) DEFINITIONS.—In this section:

23 (1) ADMINISTRATOR.—The term “Adminis-  
24 trator” means the Administrator of the Service.

1           (2) ASSISTANT SECRETARY.—The term “Assist-  
2           ant Secretary” means the Assistant Secretary of  
3           Labor for Occupational Safety and Health.

4           (3) DIRECTOR.—The term “Director” means  
5           the Director of the National Institute for Occupa-  
6           tional Safety and Health.

7           (4) SECRETARY.—The term “Secretary” means  
8           the Secretary of Agriculture.

9           (5) SERVICE.—The term “Service” means the  
10          Food Safety Inspection Service.

11         (b) RULE ON WAIVERS.—

12           (1) IN GENERAL.—Notwithstanding any other  
13          provision of law (including regulations, including  
14          sections 303.1(h) and 381.3(b) of title 9, Code of  
15          Federal Regulations (or successor regulations)), the  
16          Secretary, acting through the Administrator, shall  
17          not issue a waiver relating to line speeds at a cov-  
18          ered establishment or inspection staffing require-  
19          ments for a covered establishment unless the covered  
20          establishment—

21                   (A) agrees to an inspection conducted by  
22                   the Assistant Secretary or the Director for the  
23                   purposes of the waiver; and

24                   (B) the Assistant Secretary or the Director  
25                   certifies to the Secretary that any increases in

1 line speed at the covered establishment would  
2 not have an adverse impact on worker safety.

3 (2) INSPECTIONS.—An inspection conducted by  
4 the Assistant Secretary or the Director under para-  
5 graph (1)(A) shall include—

6 (A) an ergonomic analysis of all jobs in the  
7 applicable covered establishment that may expe-  
8 rience an increased work pace due to increasing  
9 the number of animals being slaughtered—

10 (i) per minute; and

11 (ii) per hour;

12 (B) an assessment of the current rates of  
13 musculoskeletal disorders in the covered estab-  
14 lishment;

15 (C) a review of current efforts at the cov-  
16 ered establishment to mitigate those disorders,  
17 including a review of how medical personnel at  
18 the covered establishment manage those dis-  
19 orders; and

20 (D) a review of the impact of any proposed  
21 line speed increases on the pace of work for  
22 workers on the slaughter and production lines  
23 of the covered establishment (including the  
24 workers that package the meat).

1           (3) LIMITATION ON AUTHORITY OVER LINE  
2           SPEEDS.—None of the funds made available to the  
3           Secretary during the covered period may be used to  
4           develop, propose, finalize, issue, amend, or imple-  
5           ment any policy, regulation, directive, constituent  
6           update, or any other agency program that would in-  
7           crease line speeds at covered establishments.

8           (4) EFFECT ON STATE LAW.—

9           (A) IN GENERAL.—This subsection shall  
10          not preempt or limit any law or regulation of a  
11          State or a political subdivision of a State that—

12                 (i) imposes requirements that are  
13                 more protective of worker safety or animal  
14                 welfare than the requirements of this sub-  
15                 section; or

16                 (ii) creates penalties for conduct regu-  
17                 lated by this subsection.

18          (B) OTHER LAWS.—The requirements of  
19          this subsection are in addition to, and not in  
20          lieu of, any other laws protecting worker safety  
21          and animal welfare.

22          (c) TRANSPARENCY IN RULEMAKING.—With respect  
23          to each rulemaking proceeding initiated by the Adminis-  
24          trator on or after the date of enactment of this Act, the  
25          Administrator shall comply with—

1           (1) the data quality guidelines of the Service,  
2           which state that the Service and the offices of the  
3           Service are held to a standard of transparency to en-  
4           sure that the information shared by the Service is  
5           presented in an accurate, reliable, and unbiased  
6           manner; and

7           (2) Executive Order 13563 (5 U.S.C. 601 note;  
8           relating to improving regulation and regulatory re-  
9           view), which requires Federal agencies to provide  
10          timely online access to relevant scientific information  
11          in an open format that can easily be searched and  
12          downloaded during a proposed rulemaking.

13          (d) EVALUATION OF RULEMAKING AND POLICIES.—  
14          In evaluating the impact of any future rulemaking or pol-  
15          icy, the Secretary shall request that the Director conduct  
16          an evaluation of the rulemaking or policy that includes a  
17          review of—

18                 (1) current safety conditions and injuries and  
19                 illnesses at the applicable covered establishments, in-  
20                 cluding medical exams and medical histories;

21                 (2) whether the policy proposals will increase  
22                 the pace of work for any employee at the applicable  
23                 covered establishments; and

24                 (3) whether, and the extent to which, the policy  
25                 proposals will impact worker safety.

1 (e) REPORTS.—

2 (1) REPORT TO CONGRESS.—Not later than  
3 180 days after the date of enactment of this Act, the  
4 Secretary, the Secretary of Labor, and the Secretary  
5 of Health and Human Services shall each submit to  
6 the Committee on Agriculture, Nutrition, and For-  
7 estry and the Committee on Health, Education,  
8 Labor, and Pensions of the Senate and the Com-  
9 mittee on Agriculture and the Committee on Edu-  
10 cation and Labor of the House of Representatives,  
11 a report that—

12 (A) describes the actions taken by that  
13 Secretary to ensure worker, animal, and food  
14 safety during the COVID–19 emergency; and

15 (B) includes an analysis of the issues de-  
16 scribed in paragraphs (1) through (12) of sec-  
17 tion 303(b).

18 (2) REPORTS ON IMPLEMENTATION OF  
19 RULES.—

20 (A) IN GENERAL.—Not later than 1 year  
21 after the implementation of any rule relating to  
22 line speeds at covered establishments, the Sec-  
23 retary shall submit to Congress a report on the  
24 impact of the rule on—

1 (i) line speeds at covered establish-  
2 ments;

3 (ii) worker safety and health at cov-  
4 ered establishments;

5 (iii) ergonomic aspects of jobs at cov-  
6 ered establishments; and

7 (iv) staffing levels that will ensure  
8 worker safety at covered establishments.

9 (B) REQUIREMENT.—A report under sub-  
10 paragraph (A) shall include—

11 (i) the results of a study carried out  
12 by an industrial engineer on every type of  
13 job at covered establishments impacted by  
14 the applicable rule;

15 (ii) a determination of the industrial  
16 engineer of the number of workers need-  
17 ed—

18 (I) to do each job safely; and

19 (II) to operate the covered estab-  
20 lishment at different line speeds; and

21 (iii) a job crewing report prepared by  
22 the industrial engineer.

1           **Subtitle B—Fair Attendance**  
2                           **Policies**

3 **SEC. 111. DEFINITIONS.**

4           In this subtitle:

5                   (1) COVERED ENTITY.—The term “covered en-  
6           tity”—

7                           (A) has the meaning given the term “re-  
8                           spondent” in section 701(n) of the Civil Rights  
9                           Act of 1964 (42 U.S.C. 2000e(n)); and

10                          (B) includes—

11                               (i) an employing office, as defined in  
12                               section 101 of the Congressional Account-  
13                               ability Act of 1995 (2 U.S.C. 1301);

14                               (ii) an employing office, as defined in  
15                               section 411(c) of title 3, United States  
16                               Code;

17                               (iii) an entity employing a State em-  
18                               ployee described in section 304(a) of the  
19                               Government Employee Rights Act of 1991  
20                               (42 U.S.C. 2000e–16c(a)); and

21                               (iv) an entity to which section 717(a)  
22                               of the Civil Rights Act of 1964 (42 U.S.C.  
23                               2000e–16(a)) applies.

24                          (2) EMPLOYEE.—The term “employee”  
25           means—

1 (A) an employee (including an applicant),  
2 as defined in section 701(f) of the Civil Rights  
3 Act of 1964 (42 U.S.C. 2000e(f));

4 (B) a covered employee (including an ap-  
5 plicant), as defined in section 101 of the Con-  
6 gressional Accountability Act of 1995 (2 U.S.C.  
7 1301);

8 (C) a covered employee (including an appli-  
9 cant), as defined in section 411(c) of title 3,  
10 United States Code;

11 (D) a State employee (including an appli-  
12 cant) described in section 304(a) of the Govern-  
13 ment Employee Rights Act of 1991 (42 U.S.C.  
14 2000e-16c(a)); or

15 (E) an employee (including an applicant)  
16 to which section 717(a) of the Civil Rights Act  
17 of 1964 (42 U.S.C. 2000e-16(a)) applies.

18 (3) LEGALLY PROTECTED LEAVE.—The term  
19 “legally protected leave”, when used with respect to  
20 an employee, means leave that is protected under a  
21 Federal, State, or local law applicable to the em-  
22 ployee.

23 (4) NO FAULT ATTENDANCE POLICY.—The  
24 term “no fault attendance policy” means a policy or  
25 pattern and practice maintained by a covered entity

1 under which employees face consequences for any  
2 absence, tardy, or early departure through the as-  
3 sessment of points (also referred to as “demerits” or  
4 “occurrences”) or deductions from an allotted bank  
5 of time, and those points or deductions subject the  
6 employee to progressive disciplinary action, which  
7 may include failure to receive a promotion, loss of  
8 pay, or termination.

9 (5) PERSON.—The term “person” has the  
10 meaning given such term in section 701(a) of the  
11 Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

12 (6) SECRETARY.—The term “Secretary” means  
13 the Secretary of Labor.

14 **SEC. 112. REQUIREMENTS FOR EMPLOYERS RELATING TO**  
15 **NO FAULT ATTENDANCE POLICIES OR AT-**  
16 **TENDANCE SYSTEMS.**

17 (a) REQUIREMENTS FOR NO FAULT ATTENDANCE  
18 POLICY.—It shall be considered an unlawful employment  
19 practice for a covered entity to maintain a no fault attend-  
20 ance policy, unless the covered entity complies with the  
21 following:

22 (1) The no fault attendance policy shall be dis-  
23 tributed in writing—

24 (A) not later than 90 days after the date  
25 of enactment of this Act, to all employees em-

1           employed by the covered entity as of that date of  
2           distribution; and

3                   (B) with respect to each employee hired by  
4           the covered entity after such date of enactment,  
5           upon the commencement of the employee's em-  
6           ployment.

7           (2) If any changes are made to the no fault at-  
8           tendance policy, the no fault attendance policy shall  
9           be distributed in writing to all employees by not  
10          later than 30 days after the date of the changes.

11          (3) The covered entity shall provide employees  
12          with a means of accessing the no fault attendance  
13          policy at any physical workplace and outside of a  
14          physical workplace.

15          (4) The no fault attendance policy shall explic-  
16          itly state that employees will not face disciplinary  
17          action or other adverse consequences, which may in-  
18          clude the assessment of points or a deduction from  
19          an allotted bank of time, for legally protected leave.

20          (5) The no fault attendance policy shall specifi-  
21          cally reference and provide a reasonable amount of  
22          detail about all Federal, State, and local laws appli-  
23          cable to the employees that provide legally protected  
24          leave, including the Americans with Disabilities Act  
25          of 1990 (42 U.S.C. 12101 et seq.), the Family and

1 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.),  
2 and chapter 43 of title 38, United States Code.

3 (6) The no fault attendance policy shall identify  
4 a process for employees to complete each of the fol-  
5 lowing:

6 (A) Report that an absence is for legally  
7 protected leave.

8 (B) Provide medical documentation, if it is  
9 required under the no fault attendance policy in  
10 order to avoid disciplinary action or other ad-  
11 verse consequences for legally protected leave.

12 (C) Seek removal of points that an em-  
13 ployee believes were wrongly assessed, or the  
14 restoration of time that an employee believes  
15 was wrongly deducted for legally protected  
16 leave.

17 (D) Delay the reporting of an absence in  
18 unforeseen or emergency circumstances without  
19 incurring additional points or discipline.

20 (b) REQUIREMENTS FOR ATTENDANCE SYSTEMS.—

21 It shall be an unlawful employment practice for a covered  
22 entity to maintain any attendance system policy, or pat-  
23 tern and practice, that discourages employees from exer-  
24 cising, or attempting to exercise, any right to legally pro-  
25 tected leave.

1 **SEC. 113. REMEDIES AND ENFORCEMENT.**

2 (a) CIVIL ACTION.—The powers, remedies, and pro-  
3 cedures provided in section 107 of the Family and Medical  
4 Leave Act of 1993 (29 U.S.C. 2617) shall be the powers,  
5 remedies, and procedures this subtitle provides to any per-  
6 son alleging an unlawful employment practice described in  
7 section 112.

8 (b) PENALTIES.—Any covered entity that commits an  
9 unlawful employment practice described in section 112  
10 shall be subject to civil penalties not to exceed the amounts  
11 set forth in section 17(a) of the Occupational Safety and  
12 Health Act of 1970 (29 U.S.C. 666(a)), as adjusted annu-  
13 ally for inflation. The Secretary or the Office of Federal  
14 Contract Compliance Programs may bring any legal action  
15 necessary, including administrative action, to collect such  
16 penalties.

17 **SEC. 114. RULEMAKING.**

18 Not later than 2 years after the date of enactment  
19 of this Act, the Secretary, in coordination with the Equal  
20 Employment Opportunity Commission and the heads of  
21 other relevant Federal agencies, shall issue regulations in  
22 an accessible format in accordance with subchapter II of  
23 chapter 5 of title 5, United States Code, to carry out this  
24 subtitle. Such regulations shall provide an example of a  
25 model no fault attendance policy that conforms to the re-  
26 quirements of this subtitle.

1 **SEC. 115. RELATIONSHIP TO OTHER LAWS.**

2       Nothing in this subtitle shall be construed to invali-  
3 date or limit the powers, remedies, and procedures under  
4 any Federal law or law of any State or political subdivision  
5 of any State or jurisdiction that provide leave rights,  
6 whether paid or unpaid (such as sick time, family or med-  
7 ical leave, and time off as an accommodation).

8 **SEC. 116. WAIVER OF STATE IMMUNITY.**

9       A State shall not be immune under the 11th Amend-  
10 ment to the Constitution of the United States from an  
11 action in a Federal or State court of competent jurisdic-  
12 tion for a violation of this subtitle. In any action against  
13 a State for a violation of this subtitle, remedies (including  
14 remedies both at law and in equity) are available for such  
15 a violation to the same extent as such remedies are avail-  
16 able for such a violation in an action against any public  
17 or private entity other than a State.

18 **SEC. 117. SEVERABILITY.**

19       If any provision of this subtitle or the application of  
20 that provision to particular persons or circumstances is  
21 held invalid or found to be unconstitutional, the remainder  
22 of this subtitle and the application of that provision to  
23 other persons or circumstances shall not be affected.

1 **Subtitle C—Occupational Safety**  
2 **and Health Administration Re-**  
3 **forms**

4 **SEC. 121. DEFINITIONS.**

5 In this title, the terms “Secretary” and “State” have  
6 the meanings given such terms in section 3 of the Occupa-  
7 tional Safety and Health Act of 1970 (29 U.S.C. 652).

8 **SEC. 122. ENSURING COMPLIANCE WITH EMPLOYEE**  
9 **RIGHTS TO USE TOILET FACILITIES AT COV-**  
10 **ERED ESTABLISHMENTS.**

11 (a) IN GENERAL.—During any inspection of a cov-  
12 ered establishment conducted pursuant to section 8 of the  
13 Occupational Safety and Health Act of 1970 (29 U.S.C.  
14 657), the Secretary shall verify that the employer of em-  
15 ployees working at such establishment is in compliance  
16 with the occupational safety and health standard set forth  
17 in section 1910.141 of title 29, Code of Federal Regula-  
18 tions, as in effect on the day before the date of enactment  
19 of this Act, for employers to provide prompt access for  
20 employees to visit and use toilet facilities, including such  
21 standard as interpreted by the memorandum for regional  
22 administrators and State designees regarding “Interpreta-  
23 tion of 29 CFR. 1910.141(c)(1): Toilet Facilities” issued  
24 by the Occupational Safety and Health Administration on  
25 April 6, 1998.

1 (b) REQUIREMENTS.—In carrying out subsection (a),  
2 the Secretary shall verify that the employer described in  
3 such subsection—

4 (1) allows employees to leave their work loca-  
5 tions to use a toilet facility when needed and without  
6 punishment;

7 (2) provides an adequate number of toilet facili-  
8 ties for the size of the workforce to prevent long  
9 lines;

10 (3) avoids imposing unreasonable restrictions  
11 including waiting lists on the use of toilet facilities;

12 (4) ensures that restrictions, such as locking  
13 doors or requiring employees to sign out a key, do  
14 not cause extended delays in access to toilet facili-  
15 ties; and

16 (5) compensates each employee for breaks for  
17 using toilet facilities at the regular rate of pay of the  
18 employee in accordance with section 785.18 of title  
19 29, Code of Federal Regulations, as in effect on the  
20 day before the date of enactment of this Act, and  
21 any other applicable Federal, State, or local law.

1 **SEC. 123. OCCUPATIONAL SAFETY AND HEALTH STAND-**  
2 **ARDS TO PROTECT EMPLOYEES IN COVERED**  
3 **ESTABLISHMENTS.**

4 (a) STANDARD FOR PROTECTING EMPLOYEES FROM  
5 OCCUPATIONAL RISK FACTORS CAUSING MUSCULO-  
6 SKELETAL DISORDERS.—

7 (1) PROPOSED STANDARD.—Not later than 1  
8 year after the date of enactment of this Act, the  
9 Secretary shall, pursuant to section 6 of the Occupa-  
10 tional Safety and Health Act of 1970 (29 U.S.C.  
11 655), publish in the Federal Register a proposed  
12 standard for ergonomic program management for  
13 covered establishments. Such proposed standard  
14 shall include requirements for—

15 (A) hazard identification and ergonomic  
16 job evaluations, including requirements for em-  
17 ployee and authorized employee representative  
18 participation in such identification;

19 (B) hazard control, which such require-  
20 ments rely on the principles of the hierarchy of  
21 controls and which may include measures such  
22 as rest breaks, equipment and workstation rede-  
23 sign, work pace reductions, or job rotation to  
24 less forceful or repetitive jobs;

25 (C) training for employees regarding em-  
26 ployer activities, occupational risk factors, and

1 training on controls and recognition of symp-  
2 toms of musculoskeletal disorders; and

3 (D) medical management that includes—

4 (i) encouraging early reporting of  
5 musculoskeletal disorder symptoms;

6 (ii) first aid delivered by those oper-  
7 ating under State licensing requirements;

8 and

9 (iii) systematic evaluation and early  
10 referral for medical attention.

11 (2) FINAL STANDARD.—Not later than 30  
12 months after the date of enactment this Act, the  
13 Secretary shall, pursuant to section 6 of the Occupa-  
14 tional Safety and Health Act of 1970 (29 U.S.C.  
15 655), publish in the Federal Register a final stand-  
16 ard based on the proposed standard under para-  
17 graph (1).

18 (b) STANDARD FOR PROTECTING EMPLOYEES FROM  
19 DELAYS IN MEDICAL TREATMENT REFERRALS FOL-  
20 LOWING INJURIES OR ILLNESSES.—

21 (1) PROPOSED STANDARD.—Not later than 3  
22 months after the date of enactment of this Act, the  
23 Secretary shall, pursuant to section 6 of the Occupa-  
24 tional Safety and Health Act of 1970 (29 U.S.C.  
25 655), publish in the Federal Register a proposed

1 standard requiring that all employers with employees  
2 working at a covered establishment who, in accord-  
3 ance with the standard promulgated under section  
4 1910.151 of title 29, Code of Federal Regulations,  
5 as in effect on the day before the date of enactment  
6 of this Act, are required to have a person readily  
7 available at the establishment who is adequately  
8 trained to render first aid, shall ensure that such  
9 person—

10 (A) without delay, refers any such em-  
11 ployee who reports an injury or illness that re-  
12 quires further medical treatment to an appro-  
13 priate medical professional of the employee's  
14 choice for such treatment;

15 (B) provides for occupational medicine con-  
16 sultation services through a physician who is  
17 board certified in occupational medicine, which  
18 services shall include—

19 (i) regular review of any health and  
20 safety program, medical management pro-  
21 gram, or ergonomics program of the em-  
22 ployer;

23 (ii) review of any work-related injury  
24 or illness of an employee;

1 (iii) providing onsite health services  
2 for treatment of such injury or illness; and

3 (iv) consultation referral to a local  
4 health care provider for treating such in-  
5 jury or illness; and

6 (C) complies with the licensing require-  
7 ments for licensed practical nurses or registered  
8 nurses in the State in which the establishment  
9 is located.

10 (2) FINAL STANDARD.—Not later than 1 year  
11 after the date of enactment of this Act, the Sec-  
12 retary shall, pursuant to section 6 of the Occupa-  
13 tional Safety and Health Act of 1970 (29 U.S.C.  
14 655), publish in the Federal Register a final stand-  
15 ard based on the proposed standard under para-  
16 graph (1).

17 (c) STANDARD FOR PROTECTING EMPLOYEES FROM  
18 AIRBORNE CONTAGIONS.—

19 (1) EMERGENCY TEMPORARY STANDARD FOR  
20 COVID-19.—In consideration of the grave danger  
21 presented by COVID-19 and the need to strengthen  
22 protections for workers at covered establishments,  
23 notwithstanding the provisions of law and the Exec-  
24 utive orders listed in paragraph (4), not later than  
25 7 days after the date of enactment of this Act, the

1 Secretary of Labor shall promulgate an emergency  
2 temporary standard to protect all employees, con-  
3 tractors, and temporary workers at covered estab-  
4 lishments from occupational exposure to SARS-  
5 CoV-2.

6 (2) EXTENSION OF STANDARD.—Notwith-  
7 standing paragraphs (2) and (3) of section 6(c) of  
8 the Occupational Safety and Health Act of 1970 (29  
9 U.S.C. 655(c)), the emergency temporary standard  
10 promulgated under this subsection shall be in effect  
11 until the date on which the final standard promul-  
12 gated under paragraph (5) is in effect.

13 (3) STATE PLAN ADOPTION.—With respect to a  
14 State with a State plan that has been approved by  
15 the Secretary of Labor under section 18 of the Oc-  
16 cupational Safety and Health Act of 1970 (29  
17 U.S.C. 667), not later than 14 days after the date  
18 of enactment of this Act, such State shall promul-  
19 gate an emergency temporary standard that is at  
20 least as effective in protecting employees, contrac-  
21 tors, and temporary workers at covered establish-  
22 ments from occupational exposure to SARS-CoV-2  
23 as the emergency temporary standard promulgated  
24 under this subsection.

1           (4) INAPPLICABLE PROVISIONS OF LAW AND  
2 EXECUTIVE ORDER.—The provisions of law and the  
3 Executive orders listed in this paragraph are as fol-  
4 lows:

5           (A) The requirements of chapter 6 of title  
6 5, United States Code (commonly referred to as  
7 the “Regulatory Flexibility Act”).

8           (B) Subchapter I of chapter 35 of title 44,  
9 United States Code (commonly referred to as  
10 the “Paperwork Reduction Act”).

11           (C) The Unfunded Mandates Reform Act  
12 of 1995 (2 U.S.C. 1501 et seq.).

13           (D) Executive Order 12866 (58 Fed. Reg.  
14 190; relating to regulatory planning and re-  
15 view), as amended.

16           (E) Executive Order 13771 (82 Fed. Reg.  
17 9339, relating to reducing regulation and con-  
18 trolling regulatory costs).

19           (5) FINAL STANDARD.—Not later than 24  
20 months after the date of enactment of this Act, the  
21 Secretary of Labor shall, pursuant to section 6 of  
22 the Occupational Safety and Health Act (29 U.S.C.  
23 655), promulgate a final standard—

24           (A) to protect employees, contractors, and  
25 temporary workers at covered establishments

1 from occupational exposure to infectious patho-  
2 gens, including airborne and novel pathogens;  
3 and

4 (B) that shall be effective and enforceable  
5 in the same manner and to the same extent as  
6 a standard promulgated under section 6(b) of  
7 the Occupational Safety and Health Act of  
8 1970 (29 U.S.C. 655(b)).

9 (6) CONSULTATION.—In developing the stand-  
10 ards under this subsection, the Secretary—

11 (A) shall consult with—

12 (i) the Director of the Centers for  
13 Disease Control and Prevention;

14 (ii) the Director of the National Insti-  
15 tute for Occupational Safety and Health;  
16 and

17 (iii) the professional associations and  
18 representatives of the employees, contrac-  
19 tors, and temporary workers at covered es-  
20 tablishments.

21 (7) REQUIREMENTS.—Each standard promul-  
22 gated under this subsection shall include—

23 (A) a requirement that the covered estab-  
24 lishments—

1 (i) develop and implement a com-  
2 prehensive infectious disease exposure con-  
3 trol plan, with the input and involvement  
4 of employees or, where applicable, the rep-  
5 resentatives of employees, as appropriate,  
6 to address the risk of occupational expo-  
7 sure;

8 (ii) record and report each work-re-  
9 lated COVID–19 infection and death, as  
10 set forth in part 1904 of title 29, Code of  
11 Federal Regulations (as in effect on the  
12 date of enactment of this Act), and section  
13 129 of this Act; and

14 (iii) reduce meat and poultry proc-  
15 essing rates to achieve social distancing  
16 and implement applicable requirements  
17 sufficient to protect worker health with an  
18 adequate margin of safety;

19 (B) no less protection for novel pathogens  
20 than precautions mandated by standards adopt-  
21 ed by a State plan that has been approved by  
22 the Secretary under section 18 of the Occupa-  
23 tional Safety and Health Act of 1970 (29  
24 U.S.C. 667); and

25 (C) the incorporation, as appropriate, of—

1 (i) guidelines issued by the Centers  
2 for Disease Control and Prevention, the  
3 National Institute for Occupational Safety  
4 and Health, and the Occupational Safety  
5 and Health Administration, which are de-  
6 signed to prevent the transmission of infec-  
7 tious agents in health care or other occu-  
8 pational settings; and

9 (ii) relevant scientific research on air-  
10 borne and novel pathogens.

11 (8) ENFORCEMENT.—This subsection shall be  
12 enforced in the same manner and to the same extent  
13 as any standard promulgated under section 6(b) of  
14 the Occupational Safety and Health Act of 1970 (29  
15 U.S.C. 655(b)).

16 **SEC. 124. PERMANENT REGIONAL EMPHASIS INSPECTION**  
17 **PROGRAM; EXPANDING INSPECTIONS.**

18 (a) REGIONAL EMPHASIS INSPECTION PROGRAM.—

19 (1) IN GENERAL.—Not later than 30 days after  
20 the date of enactment of this Act, the Secretary  
21 shall, pursuant to section 8 of the Occupational  
22 Safety and Health Act of 1970 (29 U.S.C. 657), im-  
23 plement a regional emphasis inspection program for  
24 covered establishments in every State of the United

1 States in which a covered establishment is located.

2 Such program shall cover—

3 (A) amputation hazards;

4 (B) ergonomics;

5 (C) hazards related to line speeds;

6 (D) bathroom breaks;

7 (E) use of chemicals such as peracetic acid  
8 (antimicrobials); and

9 (F) working conditions in high and low  
10 temperatures.

11 (2) STATE PLANS.—Not later than 30 days  
12 after the date of enactment of this Act, a State with  
13 a State plan that has been approved by the Sec-  
14 retary under section 18 of such Act (29 U.S.C. 667)  
15 shall adopt in each region within the State in which  
16 covered establishment is located a regional emphasis  
17 inspection program that is at least as effective as  
18 the program under paragraph (1).

19 (b) EXPANDING INSPECTIONS WHEN INFORMATION  
20 PRESENTS POSSIBLE ADDITIONAL DANGERS.—

21 (1) IN GENERAL.—In the case the Secretary  
22 conducts a physical inspection of a covered establish-  
23 ment pursuant to section 8 of such Act in response  
24 to a referral, complaint, or fatality, and the Sec-  
25 retary, during such inspection makes a determina-

1           tion under paragraph (2), the Secretary shall expand  
2           such inspection to all areas of the establishment.

3           (2) DETERMINATION.—A determination de-  
4           scribed in this paragraph is either of the following:

5                   (A) A determination, following a review of  
6                   records of work-related injuries and illnesses  
7                   maintained in accordance with such section 8,  
8                   that a work-related injury or illness may be re-  
9                   lated to a workplace danger that may threaten  
10                  physical harm.

11                   (B) A determination, upon interviews with  
12                   employees, that a workplace danger may threat-  
13                   en physical harm.

14 **SEC. 125. REPRESENTATIVES DURING PHYSICAL INSPEC-**  
15 **TIONS.**

16           (a) PROPOSED RULE.—Not later than 1 year after  
17 the date of enactment of this Act, the Secretary shall,  
18 under section 8(e) of the Occupational Safety and Health  
19 Act of 1970 (29 U.S.C. 657(e)), publish in the Federal  
20 Register a regulation providing that during a physical in-  
21 spection of a covered establishment under such section—

22                   (1) the representative authorized by employees  
23                   to be given the opportunity to accompany the Sec-  
24                   retary during the inspection as described in such

1 section shall not be required to be an employee of  
2 the employer;

3 (2) where there is no representative authorized  
4 by employees as described in paragraph (1), the em-  
5 ployees may designate a person affiliated with a  
6 worker-based community organization to serve as  
7 such representative; and

8 (3) the inspector may arrange for interviews  
9 with employees off-site upon the request of the rep-  
10 resentative or designated person.

11 (b) FINAL RULE.—Not later than 2 years after the  
12 date of enactment of this Act, the Secretary shall publish  
13 in the Federal Register a final rule for the proposed rule  
14 under subsection (a).

15 **SEC. 126. ENHANCED PROTECTIONS FROM RETALIATION.**

16 (a) EMPLOYEE ACTIONS.—Section 11(c)(1) of the  
17 Occupational Safety and Health Act of 1970 (29 U.S.C.  
18 660(c)(1)) is amended—

19 (1) by striking “discharge” and all that follows  
20 through “because such” and inserting the following:  
21 “discharge or cause to be discharged, or in any  
22 other manner retaliate or discriminate against or  
23 cause to be retaliated or discriminated against, any  
24 employee because—

25 “(A) such”;

1           (2) by striking “this Act or has” and inserting  
2           the following: “this Act;

3                     “(B) such employee has”;

4           (3) by striking “in any such proceeding or be-  
5           cause of the exercise” and inserting the following:  
6           “before Congress or in any Federal or State pro-  
7           ceeding related to safety or health;

8                     “(C) such employee has refused to violate  
9                     any provision of this Act; or

10                    “(D) of the exercise”; and

11           (4) by inserting before the period at the end the  
12           following: “, including the reporting of any injury,  
13           illness, or unsafe condition to the employer, agent of  
14           the employer, safety and health committee involved,  
15           or employee safety and health representative in-  
16           volved”.

17           (b) PROHIBITION OF RETALIATION; PROCEDURE.—  
18           Section 11 of such Act (29 U.S.C. 660) is amended—

19                    (1) in subsection (c)—

20                            (A) in paragraph (2)—

21                                    (i) by striking “discharged or other-  
22                                    wise discriminated against by any person  
23                                    in violation of this subsection” and insert-  
24                                    ing “aggrieved by a violation of this sub-  
25                                    section”; and

1 (ii) by striking “such discrimination”  
2 and inserting “such violation”; and

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

4 “(4) EXCEPTION FOR MEAT AND POULTRY ES-  
5 TABLISHMENTS.—Paragraphs (2) and (3) shall not  
6 apply with respect to a complaint filed by an em-  
7 ployee of an employer that is a covered establish-  
8 ment, as defined in section 3 of the Protecting  
9 America’s Meatpacking Workers Act.”; and

10 (2) by adding at the end the following:

11 “(d) MEAT AND POULTRY ESTABLISHMENTS.—

12 “(1) DEFINITIONS.—In this subsection:

13 “(A) COMPLAINANT.—The term ‘complain-  
14 ant’ means a complainant who is a covered em-  
15 ployee.

16 “(B) COVERED EMPLOYEE.—The term  
17 ‘covered employee’ means an employee of a cov-  
18 ered employer.

19 “(C) COVERED EMPLOYER.—The term  
20 ‘covered employer’ means an employer that is a  
21 covered establishment, as defined in section 3 of  
22 the Protecting America’s Meatpacking Workers  
23 Act.

1           “(D) RESPONDENT.—The term ‘respond-  
2           ent’ means a respondent who is a covered em-  
3           ployer.

4           “(2) REASONABLE APPREHENSION.—

5           “(A) IN GENERAL.—No person shall dis-  
6           charge, or cause to be discharged, or in any  
7           other manner retaliate or discriminate against,  
8           or cause to be retaliated or discriminated  
9           against, a covered employee for refusing to per-  
10          form the covered employee’s duties if the cov-  
11          ered employee has a reasonable apprehension  
12          that performing such duties would result in se-  
13          rious injury to, or serious impairment of the  
14          health of, the covered employee or other covered  
15          employees.

16          “(B) CIRCUMSTANCES.—For purposes of  
17          subparagraph (A), the circumstances causing  
18          the covered employee’s reasonable apprehension  
19          described in such subparagraph shall be of such  
20          a nature that a reasonable person, under the  
21          circumstances confronting the covered em-  
22          ployee, would conclude that performing the du-  
23          ties described in such subparagraph would have  
24          the result described in such subparagraph.

1           “(C) COMMUNICATION.—In order to qual-  
2           ify for protection under this paragraph, the cov-  
3           ered employee, when practicable, shall have  
4           communicated or attempted to communicate the  
5           safety or health concern to the covered em-  
6           ployer and have not received from the covered  
7           employer a response reasonably calculated to  
8           allay such concern.

9           “(3) COMPLAINT.—Any covered employee who  
10          believes that the covered employee has been dis-  
11          charged, disciplined, or otherwise retaliated or dis-  
12          criminated against by any person in violation of sub-  
13          section (c)(1) or paragraph (2) of this subsection  
14          may seek relief for such violation by filing a com-  
15          plaint with the Secretary under paragraph (5).

16          “(4) STATUTE OF LIMITATIONS.—

17                 “(A) IN GENERAL.—A covered employee  
18                 may take the action permitted by paragraph (3)  
19                 not later than 180 days after the later of—

20                         “(i) the date on which an alleged vio-  
21                         lation of subsection (c)(1) or paragraph (2)  
22                         of this subsection occurs; or

23                         “(ii) the date on which the covered  
24                         employee knows or should reasonably have  
25                         known that such alleged violation occurred.

1           “(B) REPEAT VIOLATION.—Except in  
2 cases when the covered employee has been dis-  
3 charged, a violation of subsection (c)(1) or  
4 paragraph (2) of this subsection shall be consid-  
5 ered to have occurred on the last date an al-  
6 leged repeat violation occurred.

7           “(5) INVESTIGATION.—

8           “(A) IN GENERAL.—A covered employee  
9 may, within the time period required under  
10 paragraph (4)(A), file a complaint with the Sec-  
11 retary alleging a violation of subsection (c)(1)  
12 or paragraph (2) of this subsection. If the com-  
13 plaint alleges a prima facie case, the Secretary  
14 shall conduct an investigation of the allegations  
15 in the complaint, which—

16                   “(i) shall include—

17                           “(I) interviewing the complain-  
18 ant;

19                           “(II) providing the respondent an  
20 opportunity to—

21                                   “(aa) submit to the Sec-  
22 retary a written response to the  
23 complaint; and

24                                   “(bb) meet with the Sec-  
25 retary to present statements from

1 witnesses or provide evidence;

2 and

3 “(III) providing the complainant

4 an opportunity to—

5 “(aa) receive any statements

6 or evidence provided to the Sec-

7 retary;

8 “(bb) meet with the Sec-

9 retary; and

10 “(cc) rebut any statements

11 or evidence; and

12 “(ii) may include issuing subpoenas

13 for the purposes of such investigation.

14 “(B) DECISION.—Not later than 90 days

15 after the filing of the complaint under this

16 paragraph, the Secretary shall—

17 “(i) determine whether reasonable

18 cause exists to believe that a violation of

19 subsection (c)(1) or paragraph (2) of this

20 subsection has occurred; and

21 “(ii) issue a decision granting or de-

22 nying relief.

23 “(6) PRELIMINARY ORDER FOLLOWING INVES-

24 TIGATION.—If, after completion of an investigation

25 under paragraph (5)(A), the Secretary finds reason-



1 the Secretary under paragraph (5)(A);  
2 or

3 “(III) by the complainant within  
4 120 days after the date of filing the  
5 complaint under paragraph (5), if the  
6 Secretary has not issued a decision  
7 under paragraph (5)(B).

8 “(ii) REINSTATEMENT ORDER.—The  
9 request for a hearing shall not operate to  
10 stay any preliminary reinstatement order  
11 issued under paragraph (6).

12 “(B) PROCEDURES.—

13 “(i) IN GENERAL.—A hearing re-  
14 quested under this paragraph shall be con-  
15 ducted expeditiously and in accordance  
16 with rules established by the Secretary for  
17 hearings conducted by administrative law  
18 judges.

19 “(ii) SUBPOENAS; PRODUCTION OF  
20 EVIDENCE.—In conducting any such hear-  
21 ing, the administrative law judge may issue  
22 subpoenas. The respondent or complainant  
23 may request the issuance of subpoenas  
24 that require the deposition of, or the at-  
25 tendance and testimony of, witnesses and

1 the production of any evidence (including  
2 any books, papers, documents, or record-  
3 ings) relating to the matter under consid-  
4 eration.

5 “(iii) DECISION.—The administrative  
6 law judge shall issue a decision not later  
7 than 90 days after the date on which a  
8 hearing was requested under this para-  
9 graph and promptly notify, in writing, the  
10 parties and the Secretary of such decision,  
11 including the findings of fact and conclu-  
12 sions of law. If the administrative law  
13 judge finds that a violation of subsection  
14 (c)(1) or paragraph (2) of this subsection  
15 has occurred, the judge shall issue an  
16 order for relief under paragraph (14). If  
17 review under paragraph (8) is not timely  
18 requested, such order shall be deemed a  
19 final order of the Secretary that is not sub-  
20 ject to judicial review.

21 “(8) ADMINISTRATIVE APPEAL.—

22 “(A) IN GENERAL.—Not later than 30  
23 days after the date of notification of a decision  
24 and order issued by an administrative law judge  
25 under paragraph (7), the complainant or re-

1           spondent may file, with objections, an adminis-  
2           trative appeal with an administrative review  
3           body designated by the Secretary (referred to in  
4           this paragraph as the ‘review board’).

5           “(B) STANDARD OF REVIEW.—In review-  
6           ing the decision and order of the administrative  
7           law judge, the review board shall affirm the de-  
8           cision and order if it is determined that the fac-  
9           tual findings set forth therein are supported by  
10          substantial evidence and the decision and order  
11          are made in accordance with applicable law.

12          “(C) DECISIONS.—If the review board  
13          grants an administrative appeal, the review  
14          board shall issue a final decision and order af-  
15          firming or reversing, in whole or in part, the  
16          decision under review by not later than 90 days  
17          after receipt of the administrative appeal. If it  
18          is determined that a violation of subsection  
19          (c)(1) or paragraph (2) of this subsection has  
20          occurred, the review board shall issue a final  
21          decision and order providing relief authorized  
22          under paragraph (14). Such decision and order  
23          shall constitute final agency action with respect  
24          to the matter appealed.

1           “(9) SETTLEMENT IN THE ADMINISTRATIVE  
2           PROCESS.—

3           “(A) IN GENERAL.—At any time before  
4           issuance of a final order, an investigation or  
5           proceeding under this subsection may be termi-  
6           nated on the basis of a settlement agreement  
7           entered into by the parties.

8           “(B) PUBLIC POLICY CONSIDERATIONS.—  
9           Neither the Secretary, an administrative law  
10          judge, nor the review board conducting a hear-  
11          ing under this subsection shall accept a settle-  
12          ment that contains conditions conflicting with  
13          the rights protected under this Act or that are  
14          contrary to public policy, including a restriction  
15          on a complainant’s right to future employment  
16          with employers other than the specific covered  
17          employers named in a complaint.

18          “(10) INACTION BY THE REVIEW BOARD OR AD-  
19          MINISTRATIVE LAW JUDGE.—

20          “(A) IN GENERAL.—The complainant may  
21          bring a de novo action described in subpara-  
22          graph (B) if—

23                  “(i) an administrative law judge has  
24                  not issued a decision and order within the

1                   90-day time period required under para-  
2                   graph (7)(B)(iii); or

3                   “(ii) the review board has not issued  
4                   a decision and order within the 90-day  
5                   time period required under paragraph  
6                   (8)(C).

7                   “(B) DE NOVO ACTION.—Such de novo ac-  
8                   tion may be brought at law or equity in the  
9                   United States district court for the district  
10                  where a violation of subsection (c)(1) or para-  
11                  graph (2) of this subsection allegedly occurred  
12                  or where the complainant resided on the date of  
13                  such alleged violation. The court shall have ju-  
14                  risdiction over such action without regard to the  
15                  amount in controversy and to order appropriate  
16                  relief under paragraph (14). Such action shall,  
17                  at the request of either party to such action, be  
18                  tried by the court with a jury.

19                  “(11) JUDICIAL REVIEW.—

20                  “(A) TIMELY APPEAL TO THE COURT OF  
21                  APPEALS.—Any party adversely affected or ag-  
22                  grieved by a final decision and order issued  
23                  under this subsection may obtain review of such  
24                  decision and order in the United States Court  
25                  of Appeals for the circuit where the violation,

1 with respect to which such final decision and  
2 order was issued, allegedly occurred or where  
3 the complainant resided on the date of such al-  
4 leged violation. To obtain such review, a party  
5 shall file a petition for review not later than 60  
6 days after the final decision and order was  
7 issued. Such review shall conform to chapter 7  
8 of title 5, United States Code. The commence-  
9 ment of proceedings under this subparagraph  
10 shall not, unless ordered by the court, operate  
11 as a stay of the final decision and order.

12 “(B) LIMITATION ON COLLATERAL AT-  
13 TACK.—An order and decision with respect to  
14 which review may be obtained under subpara-  
15 graph (A) shall not be subject to judicial review  
16 in any criminal or other civil proceeding.

17 “(12) ENFORCEMENT OF ORDER.—If a re-  
18 spondent fails to comply with an order issued under  
19 this subsection, the Secretary or the complainant on  
20 whose behalf the order was issued may file a civil ac-  
21 tion for enforcement in the United States district  
22 court for the district in which the violation was  
23 found to occur to enforce such order. If both the  
24 Secretary and the complainant file such action, the  
25 action of the Secretary shall take precedence. The

1 district court shall have jurisdiction to grant all ap-  
2 propriate relief described in paragraph (14).

3 “(13) BURDENS OF PROOF.—

4 “(A) CRITERIA FOR DETERMINATION.—In  
5 making a determination or adjudicating a com-  
6 plaint pursuant to this subsection, the Sec-  
7 retary, administrative law judge, review board,  
8 or a court may determine that a violation of  
9 subsection (c)(1) or paragraph (2) of this sub-  
10 section has occurred only if the complainant  
11 demonstrates that any conduct described in  
12 subsection (c)(1) or paragraph (2) of this sub-  
13 section with respect to the complainant was a  
14 contributing factor in the adverse action alleged  
15 in the complaint.

16 “(B) PROHIBITION.—Notwithstanding sub-  
17 paragraph (A), a decision or order that is favor-  
18 able to the complainant shall not be issued in  
19 any administrative or judicial action pursuant  
20 to this subsection if the respondent dem-  
21 onstrates by clear and convincing evidence that  
22 the respondent would have taken the same ad-  
23 verse action in the absence of such conduct.

24 “(14) RELIEF.—

1           “(A) ORDER FOR RELIEF.—If the Sec-  
2           retary, administrative law judge, review board,  
3           or a court determines that a covered employer  
4           has violated subsection (c)(1) or paragraph (2)  
5           of this subsection, the Secretary, administrative  
6           law judge, review board, or court, respectively,  
7           shall have jurisdiction to order all appropriate  
8           relief, including injunctive relief, and compen-  
9           satory and exemplary damages, including—

10                   “(i) affirmative action to abate the  
11                   violation;

12                   “(ii) reinstatement without loss of po-  
13                   sition or seniority, and restoration of the  
14                   terms, rights, conditions, and privileges as-  
15                   sociated with the complainant’s employ-  
16                   ment, including opportunities for pro-  
17                   motions to positions with equivalent or bet-  
18                   ter compensation for which the complain-  
19                   ant is qualified;

20                   “(iii) compensatory and consequential  
21                   damages sufficient to make the complain-  
22                   ant whole (including back pay, prejudg-  
23                   ment interest, and other damages); and

24                   “(iv) expungement of all warnings,  
25                   reprimands, or derogatory references that

1 have been placed in paper or electronic  
2 records or databases of any type relating  
3 to the actions by the complainant that  
4 gave rise to the unfavorable personnel ac-  
5 tion, and, at the complainant's direction,  
6 transmission of a copy of the decision on  
7 the complaint to any person whom the  
8 complainant reasonably believes may have  
9 received such unfavorable information.

10 “(B) ATTORNEYS’ FEES AND COSTS.—If  
11 the Secretary or an administrative law judge,  
12 review board, or court grants an order for relief  
13 under subparagraph (A), the Secretary, admin-  
14 istrative law judge, review board, or court, re-  
15 spectively, shall assess, at the request of the  
16 covered employee against the covered em-  
17 ployer—

18 “(i) reasonable attorneys’ fees; and

19 “(ii) costs (including expert witness  
20 fees) reasonably incurred, as determined  
21 by the Secretary, administrative law judge,  
22 review board, or court, respectively, in con-  
23 nection with bringing the complaint upon  
24 which the order was issued.

1           “(15) PROCEDURAL RIGHTS.—The rights and  
2 remedies provided for in this subsection may not be  
3 waived by any agreement, policy, form, or condition  
4 of employment, including by any pre-dispute arbitra-  
5 tion agreement or collective bargaining agreement.

6           “(16) SAVINGS.—Nothing in this subsection  
7 shall be construed to diminish the rights, privileges,  
8 or remedies of any covered employee who exercises  
9 rights under any Federal or State law or common  
10 law, or under any collective bargaining agreement.

11           “(17) ELECTION OF VENUE.—

12           “(A) IN GENERAL.—A covered employee of  
13 a covered employer who is located in a State  
14 that has a State plan approved under section  
15 18 may file a complaint alleging a violation of  
16 subsection (c)(1) or paragraph (2) of this sub-  
17 section by such employer with—

18           “(i) the Secretary under paragraph  
19 (5); or

20           “(ii) a State plan administrator in  
21 such State.

22           “(B) REFERRALS.—If—

23           “(i) the Secretary receives a complaint  
24 pursuant to subparagraph (A)(i), the Sec-

1           retary shall not refer such complaint to a  
2           State plan administrator for resolution; or  
3           “*(ii)* a State plan administrator re-  
4           ceives a complaint pursuant to subpara-  
5           graph *(A)(ii)*, the State plan administrator  
6           shall not refer such complaint to the Sec-  
7           retary for resolution.

8           “(18) PRESUMPTION OF RETALIATION.—The  
9           Secretary shall apply an un rebuttable presumption  
10          of retaliation in any complaint initiated under para-  
11          graph *(5)* in which the Secretary finds a covered em-  
12          ployee suffers an adverse action within 90 days of  
13          the date on which the covered employee took any ac-  
14          tion protected under subsection *(c)(1)* or raised any  
15          reasonable apprehension under paragraph *(2)* of this  
16          subsection.

17          “(19) SUPPLEMENT AND NOT SUPPLANT.—The  
18          remedies provided for under this subsection supple-  
19          ment, and do not supplant, the private right of ac-  
20          tion under section 130 of the Protecting America’s  
21          Meatpacking Workers Act.

22          “(20) DEFINITIONS.—For purposes of this sub-  
23          section and subsection *(c)*—

24                 “(A) the term ‘retaliate or discriminate  
25                 against’ includes reporting, or threatening to

1 report, to a Federal, State, or local authority  
2 the suspected citizenship or immigration status  
3 of a covered employee, or of a family member  
4 of a covered employee, because the covered em-  
5 ployee raises a concern about workplace health  
6 and safety practices or hazards; and

7 “(B) the term ‘family member’, with re-  
8 spect to the family member of a covered em-  
9 ployee, means an individual who—

10 “(i) is related to the covered employee  
11 by blood, adoption, marriage, or domestic  
12 partnership; and

13 “(ii) is a significant other, parent, sib-  
14 ling, child, uncle, aunt, niece, nephew,  
15 cousin, grandparent, or grandchild of the  
16 covered employee.”.

17 (c) RELATION TO ENFORCEMENT.—Section 17(j) of  
18 such Act (29 U.S.C. 666(j)) is amended by inserting be-  
19 fore the period the following: “, including the history of  
20 violations under subsection (c) or (d) of section 11”.

21 **SEC. 127. REGULATIONS TO RESTORE A COLUMN ON RE-**  
22 **QUIRED RECORDS OF WORK-RELATED MUS-**  
23 **CULOSKELETAL DISORDERS.**

24 Not later than 1 year after the date of enactment  
25 of this Act, the Secretary shall issue a final rule regarding

1 matters pertaining to the proposed rule issued by the Sec-  
2 retary on January 29, 2010, entitled “Occupational Injury  
3 and Illness Recording and Reporting Requirements” (75  
4 Fed. Reg. 4728).

5 **SEC. 128. FUNDING FOR ADDITIONAL OSHA INSPECTORS.**

6 Out of any amounts in the Treasury not otherwise  
7 appropriated, there is appropriated \$60,000,000 to the  
8 Secretary for each of fiscal years 2022 through 2027, to  
9 remain available until expended for—

10 (1) the hiring of additional inspectors to carry  
11 out inspections under section 8 of the Occupational  
12 Safety and Health Act of 1970 (29 U.S.C. 657); and

13 (2) carrying out sections 6, 8, and 11 of the  
14 Occupational Safety and Health Act of 1970 (29  
15 U.S.C. 655; 657; and 660), as amended by this Act.

16 **SEC. 129. OSHA REPORTING.**

17 (a) DEFINITION OF PANDEMIC.—In this section, the  
18 term “pandemic” means a public health emergency de-  
19 clared under section 319 of the Public Health Service Act  
20 (42 U.S.C. 247d) with respect to a pandemic.

21 (b) REPORTING DURING A PANDEMIC.—

22 (1) STANDARDIZED REPORTING.—

23 (A) IN GENERAL.—The Secretary shall es-  
24 tablish a standardized process for covered es-  
25 tablishments to report, on a weekly basis during

1 a pandemic, to the Secretary information re-  
2 garding infections and deaths related to the  
3 pandemic. Such information shall include—

4 (i) the number of employees on a  
5 weekly and cumulative basis that have con-  
6 tracted the disease resulting in the pan-  
7 demic;

8 (ii) racial demographics of such em-  
9 ployees; and

10 (iii) the employment status of such  
11 employees.

12 (B) FORM AND PROCEDURES.—

13 (i) COVID–19.—Not later than 7 days  
14 after the date of enactment of this Act, the  
15 Secretary shall issue reporting procedures  
16 described in subparagraph (A), including  
17 forms for such procedures, for reporting  
18 the information described in such subpara-  
19 graph during the pandemic with respect to  
20 COVID–19.

21 (ii) FUTURE PANDEMICS.—Not later  
22 than 1 year after the date of enactment of  
23 this Act, or 7 days following a declaration  
24 of a pandemic other than COVID–19,  
25 whichever is sooner, the Secretary shall

1           issue reporting procedures described in  
2           subparagraph (A), including forms for  
3           such procedures, for pandemics other than  
4           COVID–19.

5           (2) PUBLIC AVAILABILITY.—The Secretary  
6           shall make the information reported under para-  
7           graph (1) available to the public in a manner that  
8           facilitates public participation, including by making  
9           such information available on its website in a man-  
10          ner that maximizes public participation.

11          (3) PRIVACY.—A covered establishment, in re-  
12          porting information to the Secretary under para-  
13          graph (1), may not claim confidential business infor-  
14          mation or patient privacy, except that such an estab-  
15          lishment may withhold the names of workers, as a  
16          basis to withhold information.

17          (c) DISCLOSURES TO EMPLOYEES.—A covered estab-  
18          lishment shall disclose to each employee or individual pro-  
19          viding work for the employer, including any individual pro-  
20          viding such work through a contract or subcontract, all  
21          chemicals used at the worksite where the employee or indi-  
22          vidual provides such work. Such disclosure shall be pro-  
23          vided to the employee or individual in the native language  
24          of the employee or individual.

1 **SEC. 130. PRIVATE RIGHT OF ACTION.**

2 (a) IN GENERAL.—Any person aggrieved by the fail-  
3 ure of a covered establishment to comply with the Occupa-  
4 tional Safety and Health Act of 1970 (29 U.S.C. 651 et  
5 seq.), including any regulation promulgated pursuant to  
6 such Act, or to comply with this subtitle may file suit in  
7 any district court of the United States having jurisdiction  
8 of the parties, without respect to the amount in con-  
9 troversy and without regard to the citizenship of the par-  
10 ties, or in any other court of competent jurisdiction.

11 (b) RIGHT OF RECOVERY.—In an action brought by  
12 any aggrieved person pursuant to this section, the person  
13 may recover equitable and legal relief (including compen-  
14 satory and punitive damages), attorney’s fees (including  
15 expert fees), and costs of the action.

16 (c) ACTION BY THE SECRETARY.—Any administra-  
17 tive enforcement by the Secretary shall not preclude the  
18 relief afforded by this section or otherwise deprive a court  
19 of jurisdiction.

20 **SEC. 131. INJUNCTION PROCEEDINGS.**

21 Section 13 of the Occupational Safety and Health Act  
22 of 1970 (29 U.S.C. 662) is amended—

23 (1) in subsection (a), by adding at the end the  
24 following: “Any employee (or the representative of  
25 such employee) at a place of employment subject to

1 enforcement under this subsection may uncondition-  
 2 ally intervene as a matter of right.”; and

3 (2) in subsection (d), by adding at the end the  
 4 following: “The right to judicial review provided in  
 5 this subsection shall extend to, and the district court  
 6 shall have jurisdiction to adjudicate, any action, in-  
 7 action, or failure to act by the Secretary with re-  
 8 spect to an imminent danger regardless of whether  
 9 the Secretary, an inspector, or any other individual  
 10 determines the existence or absence of an imminent  
 11 danger.”.

## 12 **Subtitle D—Savings Provision**

### 13 **SEC. 136. SAVINGS PROVISION.**

14 Nothing in title shall be construed to diminish the  
 15 rights, privileges, or remedies of any employee who exer-  
 16 cises rights under any Federal or State law or common  
 17 law, or under any collective bargaining agreement.

## 18 **TITLE II—FARM SYSTEM**

### 19 **REFORMS**

#### 20 **SEC. 201. EXPANDED MEAT AND POULTRY PROCESSING** 21 **GRANTS.**

22 Section 764 of division N of the Consolidated Appro-  
 23 priations Act, 2021 (21 U.S.C. 473), is amended—

24 (1) in subsection (b)—

1 (A) in paragraph (2), by redesignating  
2 subparagraphs (A) and (B) as clauses (i) and  
3 (ii), respectively, and indenting appropriately;

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

7 (C) in the matter preceding subparagraph  
8 (A) (as so redesignated), by striking “To be eli-  
9 gible” and inserting the following:

10 “(1) IN GENERAL.—To be eligible”;

11 (D) in paragraph (1) (as so designated)—

12 (i) in the matter preceding subpara-  
13 graph (A) (as so redesignated), by striking  
14 “shall be—” and inserting “shall—”;

15 (ii) in subparagraph (A) (as so redesi-  
16 gnated)—

17 (I) by inserting “be” before “in  
18 operation”; and

19 (II) by striking “and” at the end;

20 (iii) in subparagraph (B) (as so redesi-  
21 gnated)—

22 (I) in the matter preceding clause

23 (i) (as so redesignated), by striking  
24 “seeking” and inserting “seek”; and

1 (II) in clause (ii) (as so redesignig-  
2 nated), by striking the period at the  
3 end and inserting “; and”; and

4 (iv) by adding at the end the fol-  
5 lowing:

6 “(C) have a labor peace agreement in  
7 place.”; and

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

9 “(2) DEFINITION OF LABOR PEACE AGREE-  
10 MENT.—In this subsection, the term ‘labor peace  
11 agreement’ means an agreement—

12 “(A) between an employer and a labor or-  
13 ganization that represents, or is actively seeking  
14 to represent, the employees of the employer;  
15 and

16 “(B) under which such employer and labor  
17 organization agree that—

18 “(i) the employer will not—

19 “(I) hinder any effort of an em-  
20 ployee to join a labor organization; or

21 “(II) take any action that di-  
22 rectly or indirectly indicates or implies  
23 any opposition to an employee joining  
24 a labor organization;

1           “(ii) the labor organization agrees to  
2           refrain from picketing, work stoppages, or  
3           boycotts against the employer;

4           “(iii) the employer provides the labor  
5           organization with employee contact infor-  
6           mation, and facilitates or permits labor or-  
7           ganization access to employees at the  
8           workplace, including facilitating or permit-  
9           ting the labor organization to meet with  
10          employees to discuss joining the labor or-  
11          ganization; and

12          “(iv) the employer shall, upon the re-  
13          quest of the labor organization, recognize  
14          the labor organization as the bargaining  
15          representative of the employees if a major-  
16          ity of the employees choose the labor orga-  
17          nization as their bargaining representa-  
18          tive.”;

19          (2) in subsection (d)(2)—

20                 (A) in subparagraph (A), by redesignating  
21                 clauses (i) and (ii) as subclauses (I) and (II),  
22                 respectively, and indenting appropriately;

23                 (B) by redesignating subparagraphs (A)  
24                 and (B) as clauses (i) and (ii), respectively, and  
25                 indenting appropriately;

1 (C) in the matter preceding clause (i) (as  
2 so redesignated), by striking “recipient shall  
3 agree” and inserting the following: “recipient—

4 “(A) shall agree”;

5 (D) in subparagraph (A) (as so des-  
6 ignated), in clause (ii) (as so redesignated), by  
7 striking the period at the end and inserting “;  
8 and”; and

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

10 “(B) shall not, for a period of 10 years fol-  
11 lowing the date of receipt of the grant, sell a  
12 slaughter or processing facility to, or merge the  
13 slaughter or processing facility with, a packer  
14 that owns more than 10 percent of the market  
15 share of meat and poultry markets.”; and

16 (3) in subsection (f)—

17 (A) by striking “Of the funds” and insert-  
18 ing the following:

19 “(1) IN GENERAL.—Of the funds”; and

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

21 “(2) ADDITIONAL FUNDING.—In addition to  
22 amounts made available under paragraph (1), of the  
23 funds of the Treasury not otherwise appropriated,  
24 there is appropriated to carry out this section



1 (ii) in clause (ii), by striking “ground  
2 lamb” and inserting “ground beef, ground  
3 lamb, ground pork,”;

4 (iii) in clause (x), by striking “and”  
5 at the end;

6 (iv) in clause (xi), by striking the pe-  
7 riod at the end and inserting “; and”; and

8 (v) by adding at the end the following:  
9 “(xii) dairy products.”; and

10 (B) in subparagraph (B), by inserting  
11 “(other than clause (xii) of that subpara-  
12 graph)” after “subparagraph (A)”;

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

15 “(3) DAIRY PRODUCT.—The term ‘dairy prod-  
16 uct’ means—

17 “(A) fluid milk;

18 “(B) cheese, including cottage cheese and  
19 cream cheese;

20 “(C) yogurt;

21 “(D) ice cream;

22 “(E) butter; and

23 “(F) any other dairy product.”; and

24 (5) by inserting after paragraph (7) (as so re-  
25 designated) the following:

1           “(8) PORK.—The term ‘pork’ means meat pro-  
2           duced from hogs.”.

3           (b) NOTICE OF COUNTRY OF ORIGIN.—Section  
4 282(a) of the Agricultural Marketing Act of 1946 (7  
5 U.S.C. 1638a(a)) is amended by adding at the end the  
6 following:

7           “(5) DESIGNATION OF COUNTRY OF ORIGIN  
8           FOR DAIRY PRODUCTS.—

9           “(A) IN GENERAL.—A retailer of a covered  
10           commodity that is a dairy product shall des-  
11           ignate the origin of the covered commodity as—

12                   “(i) each country in which or from  
13                   which the 1 or more dairy ingredients or  
14                   dairy components of the covered com-  
15                   modity were produced, originated, or  
16                   sourced; and

17                   “(ii) each country in which the cov-  
18                   ered commodity was processed.

19           “(B) STATE, REGION, LOCALITY OF THE  
20           UNITED STATES.—With respect to a covered  
21           commodity that is a dairy product produced ex-  
22           clusively in the United States, designation by a  
23           retailer of the State, region, or locality of the  
24           United States where the covered commodity

1           was produced shall be sufficient to identify the  
2           United States as the country of origin.”.

3 **SEC. 204. DEFINITIONS IN PACKERS AND STOCKYARDS ACT,**  
4                                   **1921.**

5           Section 2(a) of the Packers and Stockyards Act,  
6 1921 (7 U.S.C. 182(a)), is amended—

7           (1) in paragraph (8), by striking “for slaugh-  
8           ter” and all that follows through “of such poultry”  
9           and inserting “under a poultry growing arrange-  
10          ment, regardless of whether the poultry is owned by  
11          that person or another person”;

12          (2) in paragraph (9), by striking “and cares for  
13          live poultry for delivery, in accord with another’s in-  
14          structions, for slaughter” and inserting “or cares for  
15          live poultry in accordance with the instructions of  
16          another person”;

17          (3) in each of paragraphs (1) through (9), by  
18          striking the semicolon at the end and inserting a pe-  
19          riod;

20          (4) in paragraph (10)—

21                  (A) by striking “for the purpose of either  
22                  slaughtering it or selling it for slaughter by an-  
23                  other”; and

24                  (B) by striking “; and” at the end and in-  
25                  serting a period; and

1 (5) by adding at the end the following:

2 “(15) FORMULA PRICE.—

3 “(A) IN GENERAL.—The term ‘formula  
4 price’ means any price term that establishes a  
5 base from which a purchase price is calculated  
6 on the basis of a price that will not be deter-  
7 mined or reported until a date that is after the  
8 date on which the forward price is established.

9 “(B) EXCLUSION.—The term ‘formula  
10 price’ does not include—

11 “(i) any price term that establishes a  
12 base from which a purchase price is cal-  
13 culated on the basis of a futures market  
14 price; or

15 “(ii) any adjustment to the base for  
16 quality, grade, or other factors relating to  
17 the value of livestock or livestock products  
18 that are readily verifiable market factors  
19 and are outside the control of the packer.

20 “(16) FORWARD CONTRACT.—The term ‘for-  
21 ward contract’ means an oral or written contract for  
22 the purchase of livestock that provides for the deliv-  
23 ery of the livestock to a packer at a date that is  
24 more than 7 days after the date on which the con-

1 tract is entered into, without regard to whether the  
2 contract is for—

3 “(A) a specified lot of livestock; or

4 “(B) a specified number of livestock over a  
5 certain period of time.”.

6 **SEC. 205. UNLAWFUL PRACTICES.**

7 (a) IN GENERAL.—Section 202 of the Packers and  
8 Stockyards Act, 1921 (7 U.S.C. 192), is amended—

9 (1) by redesignating subsections (a) through (f)  
10 and (g) as paragraphs (1) through (6) and (10), re-  
11 spectively, and indenting appropriately;

12 (2) by striking the section designation and all  
13 that follows through “It shall be” in the matter pre-  
14 ceding paragraph (1) (as so redesignated) and in-  
15 serting the following:

16 **“SEC. 202. UNLAWFUL ACTS.**

17 “(a) IN GENERAL.—It shall be”;

18 (3) in subsection (a)—

19 (A) in the matter preceding paragraph (1)  
20 (as so redesignated), by striking “to:” and in-  
21 serting “to do any of the following:”;

22 (B) in each of paragraphs (1) through (6)  
23 (as so redesignated), by striking “; or” each  
24 place it appears and inserting a period;

1 (C) in paragraph (6) (as so redesign-  
2 nated)—

3 (i) by striking “(1)” and inserting  
4 “(A)”;

5 (ii) by striking “(2)” and inserting  
6 “(B)”;

7 (iii) by striking “(3)” and inserting  
8 “(C)”;

9 (D) by inserting after paragraph (6) the  
10 following:

11 “(7) Use, in effectuating any sale of livestock,  
12 a forward contract that—

13 “(A) does not contain a firm base price  
14 that may be equated to a fixed dollar amount  
15 on the date on which the forward contract is  
16 entered into;

17 “(B) is not offered for bid in an open, pub-  
18 lic manner under which—

19 “(i) buyers and sellers have the oppor-  
20 tunity to participate in the bid;

21 “(ii) more than 1 blind bid is solici-  
22 ited; and

23 “(iii) buyers and sellers may witness  
24 bids that are made and accepted;

25 “(C) is based on a formula price; or

1                   “(D) provides for the sale of livestock in a  
2                   quantity in excess of—

3                   “(i) in the case of cattle, 40 cattle;

4                   “(ii) in the case of swine, 30 swine;

5                   and

6                   “(iii) in the case of another type of  
7                   livestock, a comparable quantity of that  
8                   type of livestock, as determined by the Sec-  
9                   retary.

10                  “(8) Own or feed livestock directly, through a  
11                  subsidiary, or through an arrangement that gives a  
12                  packer operational, managerial, or supervisory con-  
13                  trol over the livestock, or over the farming operation  
14                  that produces the livestock, to such an extent that  
15                  the producer of the livestock is not materially par-  
16                  ticipating in the management of the operation with  
17                  respect to the production of the livestock, except  
18                  that this paragraph shall not apply to—

19                  “(A) an arrangement entered into not  
20                  more than 7 business days before slaughter of  
21                  the livestock by a packer, a person acting  
22                  through the packer, or a person that directly or  
23                  indirectly controls, or is controlled by or under  
24                  common control with, the packer;



1           “(b) UNFAIR, DISCRIMINATORY, AND DECEPTIVE  
2 PRACTICES AND DEVICES.—Acts by a packer, swine con-  
3 tractor, or live poultry dealer that violate subsection (a)(1)  
4 include the following:

5           “(1) Refusal to provide, on the request of a  
6 livestock producer, swine production contract grow-  
7 er, or poultry grower with which the packer, swine  
8 contractor, or live poultry dealer has a marketing or  
9 delivery contract, the relevant statistical information  
10 and data used to determine the compensation paid  
11 to the livestock producer, swine production contract  
12 grower, or poultry grower, as applicable, under the  
13 contract, including—

14           “(A) feed conversion rates by house, lot, or  
15 pen;

16           “(B) feed analysis;

17           “(C) breeder history;

18           “(D) quality grade;

19           “(E) yield grade; and

20           “(F) delivery volume for any certified  
21 branding program (such as programs for angus  
22 beef or certified grassfed or Berkshire pork).

23           “(2) Conduct or action that limits or attempts  
24 to limit by contract the legal rights and remedies of

1 a livestock producer, swine production contract  
2 grower, or poultry grower, including the right—

3 “(A) to a trial by jury, unless the livestock  
4 producer, swine production contract grower, or  
5 poultry grower, as applicable, is voluntarily  
6 bound by an arbitration provision in a contract;

7 “(B) to pursue all damages available under  
8 applicable law; and

9 “(C) to seek an award of attorneys’ fees,  
10 if available under applicable law.

11 “(3) Termination of a poultry growing arrange-  
12 ment or swine production contract with no basis  
13 other than an allegation that the poultry grower or  
14 swine production contract grower failed to comply  
15 with an applicable law, rule, or regulation.

16 “(4) A representation, omission, or practice  
17 that is likely to mislead a livestock producer, swine  
18 production contract grower, or poultry grower re-  
19 garding a material condition or term in a contract  
20 or business transaction.

21 “(c) UNDUE OR UNREASONABLE PREFERENCES, AD-  
22 VANTAGES, PREJUDICES, AND DISADVANTAGES.—

23 “(1) IN GENERAL.—Acts by a packer, swine  
24 contractor, or live poultry dealer that violate sub-  
25 section (a)(2) include the following:

1           “(A) A retaliatory action (including coer-  
2           cion or intimidation) or the threat of retaliatory  
3           action—

4                   “(i) in connection with the execution,  
5                   termination, extension, or renewal of a  
6                   contract or agreement with a livestock pro-  
7                   ducer, swine production contract grower,  
8                   or poultry grower aimed to discourage the  
9                   exercise of the rights of the livestock pro-  
10                  ducer, swine production contract grower,  
11                  or poultry grower under this Act or any  
12                  other law; and

13                   “(ii) in response to lawful communica-  
14                   tion (including as described in paragraph  
15                   (2)), association, or assertion of rights by  
16                   a livestock producer, swine production con-  
17                   tract grower, or poultry grower.

18           “(B) Use of the tournament system for  
19           poultry as described in paragraph (3).

20           “(2) **LAWFUL COMMUNICATION DESCRIBED.**—A  
21           lawful communication referred to in paragraph  
22           (1)(A)(ii) includes—

23                   “(A) a communication with officials of a  
24                   Federal agency or Members of Congress;

1           “(B) any lawful disclosure that dem-  
2           onstrates a reasonable belief of a violation of  
3           this Act or any other law; and

4           “(C) any other communication that assists  
5           in carrying out the purposes of this Act.

6           “(3) USE OF TOURNAMENT SYSTEM FOR POUL-  
7           TRY.—

8           “(A) IN GENERAL.—Subject to subpara-  
9           graph (B), a live poultry dealer shall be in vio-  
10          lation of subsection (a)(2) if the live poultry  
11          dealer determines the formula for calculating  
12          the pay of a poultry grower in a tournament  
13          group by comparing the performance of the  
14          birds of other poultry growers in the group  
15          using factors outside the control of the poultry  
16          grower and within the control of the live poultry  
17          dealer.

18          “(B) EXCEPTION.—Under subparagraph  
19          (A), a live poultry dealer shall not be found in  
20          violation of subsection (a)(2) if the live poultry  
21          dealer demonstrates through clear and con-  
22          vincing evidence that the inputs and services  
23          described in subparagraph (C) that were used  
24          in the comparative evaluation were substantially  
25          the same in quality, quantity, and timing, as

1 applicable, for all poultry growers in the tour-  
2 nament group.

3 “(C) INPUTS AND SERVICES DESCRIBED.—  
4 The inputs and services referred to in subpara-  
5 graph (B) include, with respect to poultry grow-  
6 ers in the same tournament group—

7 “(i) the quantity, breed, sex, and age  
8 of chicks delivered to each poultry grower;

9 “(ii) the breed and age of the breeder  
10 flock from which chicks are drawn for each  
11 poultry grower;

12 “(iii) the quality, type (such as starter  
13 feed), and quantity of feed delivered to  
14 each poultry grower;

15 “(iv) the quality of and access to  
16 medications for the birds of each poultry  
17 grower;

18 “(v) the number of birds in a flock de-  
19 livered to each poultry grower;

20 “(vi) the timing of the pick-up of  
21 birds for processing (including the age of  
22 the birds and the number of days that the  
23 birds are in the care of the poultry grower)  
24 for each poultry grower;

1                   “(vii) the death loss of birds during  
2                   pick-up, transport, and time spent at the  
3                   processing plant for each poultry grower;

4                   “(viii) condemnations of parts of birds  
5                   due to actions in processing for each poul-  
6                   try grower;

7                   “(ix) condemnations of whole birds  
8                   due to the fault of the poultry grower;

9                   “(x) the death loss of birds due to the  
10                  fault of the poultry grower;

11                  “(xi) the stated reasons for the cause  
12                  of the death losses and condemnations de-  
13                  scribed in clauses (vii) through (x);

14                  “(xii) the type and classification of  
15                  each poultry grower; and

16                  “(xiii) any other input or service that  
17                  may have an impact on feed conversion to  
18                  weight gain efficiency or the life span of  
19                  the birds of each poultry grower.

20                  “(d) HARM TO COMPETITION NOT REQUIRED.—In  
21                  determining whether an act, device, or conduct is a viola-  
22                  tion under paragraph (1) or (2) of subsection (a), a find-  
23                  ing that the act, device, or conduct adversely affected or  
24                  is likely to adversely affect competition is not required.”.

25                  (b) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Subject to paragraph (2),  
2           paragraph (8) of section 202(a) of the Packers and  
3           Stockyards Act, 1921 (7 U.S.C. 192) (as designated  
4           by subsection (a)(2)), shall take effect on the date  
5           of enactment of this Act.

6           (2) TRANSITION RULES.—In the case of a pack-  
7           er that, on the date of enactment of this Act, owns,  
8           feeds, or controls livestock intended for slaughter in  
9           violation of paragraph (8) of section 202(a) of the  
10          Packers and Stockyards Act, 1921 (7 U.S.C. 192)  
11          (as designated by subsection (a)(2)), that paragraph  
12          shall take effect—

13                 (A) in the case of a packer of swine, begin-  
14                 ning on the date that is 18 months after the  
15                 date of enactment of this Act; and

16                 (B) in the case of a packer of any other  
17                 type of livestock, beginning not later than 180  
18                 days after the date of enactment of this Act, as  
19                 determined by the Secretary.

20 **SEC. 206. SPOT MARKET PURCHASES OF LIVESTOCK BY**  
21 **PACKERS.**

22          The Packers and Stockyards Act, 1921, is amended  
23 by inserting after section 202 (7 U.S.C. 192) the fol-  
24 lowing:

1 **“SEC. 202A. SPOT MARKET PURCHASES OF LIVESTOCK BY**  
2 **PACKERS.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) COVERED PACKER.—

5 “(A) IN GENERAL.—The term ‘covered  
6 packer’ means a packer that is required under  
7 subtitle B of the Agricultural Marketing Act of  
8 1946 (7 U.S.C. 1635 et seq.) to report to the  
9 Secretary each reporting day information on the  
10 price and quantity of livestock purchased by the  
11 packer.

12 “(B) EXCLUSION.—The term ‘covered  
13 packer’ does not include a packer that owns  
14 only 1 livestock processing plant.

15 “(2) NONAFFILIATED PRODUCER.—The term  
16 ‘nonaffiliated producer’ means a producer of live-  
17 stock—

18 “(A) that sells livestock to a packer;

19 “(B) that has less than 1 percent equity  
20 interest in the packer;

21 “(C) that has no officers, directors, em-  
22 ployees, or owners that are officers, directors,  
23 employees, or owners of the packer;

24 “(D) that has no fiduciary responsibility to  
25 the packer; and

1                   “(E) in which the packer has no equity in-  
2                   terest.

3                   “(3) SPOT MARKET SALE.—

4                   “(A) IN GENERAL.—The term ‘spot mar-  
5                   ket sale’ means a purchase and sale of livestock  
6                   by a packer from a producer—

7                   “(i) under an agreement that specifies  
8                   a firm base price that may be equated with  
9                   a fixed dollar amount on the date the  
10                  agreement is entered into;

11                  “(ii) under which the livestock are  
12                  slaughtered not more than 7 days after the  
13                  date on which the agreement is entered  
14                  into; and

15                  “(iii) under circumstances in which a  
16                  reasonable competitive bidding opportunity  
17                  exists on the date on which the agreement  
18                  is entered into.

19                  “(B) REASONABLE COMPETITIVE BIDDING  
20                  OPPORTUNITY.—For the purposes of subpara-  
21                  graph (A)(iii), a reasonable competitive bidding  
22                  opportunity shall be considered to exist if—

23                  “(i) no written or oral agreement pre-  
24                  cludes the producer from soliciting or re-  
25                  ceiving bids from other packers; and

1                   “(ii) no circumstance, custom, or  
2                   practice exists that—

3                   “(I) establishes the existence of  
4                   an implied contract (as determined in  
5                   accordance with the Uniform Com-  
6                   mercial Code); and

7                   “(II) precludes the producer from  
8                   soliciting or receiving bids from other  
9                   packers.

10           “(b) GENERAL RULE.—Of the quantity of livestock  
11 that is slaughtered by a covered packer during each re-  
12 porting day in each plant, the covered packer shall slaugh-  
13 ter not less than the applicable percentage specified in  
14 subsection (c) of the quantity through spot market sales  
15 from nonaffiliated producers.

16           “(c) APPLICABLE PERCENTAGES.—

17           “(1) IN GENERAL.—Except as provided in para-  
18 graph (2), the applicable percentage shall be 50 per-  
19 cent.

20           “(2) EXCEPTIONS.—In the case of a covered  
21 packer that reported to the Secretary in the 2018  
22 annual report that more than 60 percent of the live-  
23 stock of the covered packer were committed procure-  
24 ment livestock, the applicable percentage shall be the  
25 greater of—

1           “(A) the difference between the percentage  
2           of committed procurement so reported and 100  
3           percent; and

4           “(B)(i) during each of calendar years 2020  
5           and 2021, 20 percent;

6           “(ii) during each of calendar years 2022  
7           and 2023, 30 percent; and

8           “(iii) during calendar year 2024 and each  
9           calendar year thereafter, 50 percent.

10          “(d) NONPREEMPTION.—This section does not pre-  
11          empt any requirement of a State or political subdivision  
12          of a State that requires a covered packer to purchase on  
13          the spot market a greater percentage of the livestock pur-  
14          chased by the covered packer than is required under this  
15          section.”.

16          **SEC. 207. INVESTIGATION OF LIVE POULTRY DEALERS.**

17          (a) ADMINISTRATIVE ENFORCEMENT AUTHORITY  
18          OVER LIVE POULTRY DEALERS.—Sections 203, 204, and  
19          205 of the Packers and Stockyards Act, 1921 (7 U.S.C.  
20          193, 194, 195), are amended by inserting “, live poultry  
21          dealer,” after “packer” each place it appears.

22          (b) AUTHORITY TO REQUEST TEMPORARY INJUNC-  
23          TION OR RESTRAINING ORDER.—Section 408(a) of the  
24          Packers and Stockyards Act, 1921 (7 U.S.C. 228a(a)), is

1 amended by inserting “or poultry care” after “on account  
2 of poultry”.

3 (c) VIOLATIONS BY LIVE POULTRY DEALERS.—Sec-  
4 tion 411 of the Packers and Stockyards Act, 1921 (7  
5 U.S.C. 228b-2), is amended—

6 (1) in subsection (a), in the first sentence, by  
7 striking “any provision of section 207 or section 410  
8 of”; and

9 (2) in subsection (b), in the first sentence, by  
10 striking “any provisions of section 207 or section  
11 410” and inserting “any provision”.

12 **SEC. 208. AWARD OF ATTORNEY FEES.**

13 Section 204 of the Packers and Stockyards Act, 1921  
14 (7 U.S.C. 194), is amended by adding at the end the fol-  
15 lowing:

16 “(i) ATTORNEY’S FEE.—The court shall award a rea-  
17 sonable attorney’s fee as part of the costs to a prevailing  
18 plaintiff in a civil action under this section.”.

19 **SEC. 209. TECHNICAL AMENDMENTS.**

20 (a) Section 203 of the Packers and Stockyards Act,  
21 1921 (7 U.S.C. 193), is amended—

22 (1) in subsection (a), in the first sentence—

23 (A) by striking “he shall cause” and in-  
24 serting “the Secretary shall cause”; and

1 (B) by striking “his charges” and inserting  
2 “the charges”;

3 (2) in subsection (b), in the first sentence, by  
4 striking “he shall make a report in writing in which  
5 he shall state his findings” and inserting “the Sec-  
6 retary shall make a report in writing in which the  
7 Secretary shall state the findings of the Secretary”;  
8 and

9 (3) in subsection (c), by striking “he” and in-  
10 sserting “the Secretary”.

11 (b) Section 204 of the Packers and Stockyards Act,  
12 1921 (7 U.S.C. 194), is amended—

13 (1) in subsection (a), by striking “he has his”  
14 and inserting “the packer, live poultry dealer, or  
15 swine contractor has the”;

16 (2) in subsection (c), by striking “his officers,  
17 directors, agents, and employees” and inserting “the  
18 officers, directors, agents, and employees of the  
19 packer, live poultry dealer, or swine packer”;

20 (3) in subsection (f), in the second sentence—

21 (A) by striking “his findings” and insert-  
22 ing “the findings of the Secretary”; and

23 (B) by striking “he” and inserting “the  
24 Secretary”; and

1 (4) in subsection (g), by striking “his officers,  
2 directors, agents, and employees” and inserting “the  
3 officers, directors, agents, and employees of the  
4 packer, live poultry dealer, or swine packer”.

### 5 **TITLE III—GAO REPORTS**

#### 6 **SEC. 301. REVIEW AND REPORT ON FRAGILITY AND NA-** 7 **TIONAL SECURITY IN THE FOOD SYSTEM.**

8 (a) IN GENERAL.—Not later than 180 days after the  
9 date of enactment of this Act, the Comptroller General  
10 of the United States shall carry out, and submit to Con-  
11 gress a report containing, a review of the fragility of the  
12 food system in the United States with respect to meat and  
13 poultry.

14 (b) REQUIREMENTS.—The report under subsection  
15 (a) shall include information on, and an analysis of—

16 (1) the reach of corporate consolidation and  
17 corporate control of the meat and poultry supply  
18 chain, including animal feed, inputs for animal feed,  
19 processing, and distribution;

20 (2) the effects of corporate consolidation and  
21 corporate control of the meat and poultry supply  
22 chain on—

23 (A) consumers, farmers, rural commu-  
24 nities, and meat and poultry processing work-  
25 ers;

1           (B) greenhouse gas emissions, climate  
2           change, and costs borne by communities to  
3           adapt to climate change;

4           (C) water quality, soil quality, air quality,  
5           and biodiversity; and

6           (D) politics and political lobbying;

7           (3)(A) the extent to which Department of Agri-  
8           culture rules and regulations designed for large cov-  
9           ered establishments are applied to small- and me-  
10          dium-sized covered establishments; and

11          (B) the need for the Secretary of Agriculture to  
12          adapt rules and regulations to benefit small- and  
13          medium-sized covered establishments;

14          (4) the effects of the COVID–19 pandemic on  
15          meat and poultry exports, meat and poultry cold  
16          storage inventories, processing rates of meat and  
17          poultry, and the net profits earned by owners of cov-  
18          ered establishments;

19          (5) the effect of the COVID–19 pandemic on  
20          meat and poultry prices paid—

21               (A) to farmers; and

22               (B) by consumers;

23          (6) Federal support for the corporations that  
24          control the largest percentage of the meat and poul-

1       try industry through contracts, procurement, sub-  
2       sidies, and other mechanisms;

3               (7) the risk of disruption caused by corporate  
4       consolidation among covered establishments, includ-  
5       ing an analysis of food supply chain issues resulting  
6       from the COVID–19 pandemic; and

7               (8) the extent to which breaking up the meat  
8       packing oligopoly would increase food system resil-  
9       iency for the next pandemic.

10 **SEC. 302. REVIEW AND REPORT ON RACIAL AND ETHNIC**  
11                   **DISPARITIES IN MEAT AND POULTRY PROC-**  
12                   **ESSING.**

13       Not later than 180 days after the date of enactment  
14 of this Act, the Comptroller General of the United States  
15 shall carry out, and submit to Congress, a report on racial  
16 and ethnic disparities in the meat and poultry processing  
17 sector. Such report shall contain a review of each of the  
18 following:

19               (1) The impacts of working in covered estab-  
20       lishments to individuals working at such establish-  
21       ments who are employees, temporary workers, incar-  
22       cerated workers, noncitizen workers admitted to the  
23       United States as nonimmigrants described in section  
24       101(a)(15)(H)(ii)(b) of the Immigration and Nation-  
25       ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) or as ref-

1       ugees under section 207 of that Act (8 U.S.C.  
2       1157), or noncitizen workers who are not lawfully  
3       present in the United States. Such review shall in-  
4       clude a review of—

5               (A) workplace injuries, including repetitive  
6       musculoskeletal injuries, of such individuals;

7               (B) psychological and mental health condi-  
8       tions of such individuals;

9               (C) exposure of such individuals to chemi-  
10      cals or other potential carcinogens and repro-  
11      ductive toxins;

12              (D) any physical or mental abuse, includ-  
13      ing sexual harassment, of such individuals by  
14      co-workers or managers;

15              (E) the risk of exposure to SARS-CoV-2  
16      for such individuals;

17              (F) the extent to which such individuals  
18      are unable to seek appropriate relief for work-  
19      place injuries, abuse, and protection from expo-  
20      sure to SARS-CoV-2 during the COVID-19  
21      emergency for fear of retaliation; and

22              (G) COVID-19 deaths and illnesses of  
23      such individuals, including the short- and long-  
24      term effects of COVID-19 for such individuals.

1           (2) The racial demographics and use of tem-  
2           porary workers to outsource the responsibility of  
3           covered establishments to provide a safe workplace.

4           (3) The racial demographics and use of incar-  
5           cerated workers in covered establishments, includ-  
6           ing—

7                   (A) the extent to which such workers have  
8                   a choice in working at covered establishments;

9                   (B) the use of such workers to outsource  
10                  the responsibility of covered establishments to  
11                  provide a safe workplace;

12                  (C) the use of such workers to outsource  
13                  the responsibility of covered establishments to  
14                  provide fair compensation; and

15                  (D) the use of such workers by covered es-  
16                  tablishments to externalize employee cost.

17           (4) The racial demographics and use of noncit-  
18           izen workers admitted to the United States as non-  
19           immigrants described in section 101(a)(15)(H)(ii)(b)  
20           of the Immigration and Nationality Act (8 U.S.C.  
21           1101(a)(15)(H)(ii)(b)) or as refugees under section  
22           207 of that Act (8 U.S.C. 1157) at covered estab-  
23           lishments, including—

24                   (A) the extent to which predatory prac-  
25                   tices, such as limiting the ability of such work-

1           ers to choose and move between competing or-  
2           ganizations, are utilized by covered establish-  
3           ments with respect to such workers;

4           (B) the extent to which such workers are  
5           unable to speak out for fear of retaliation; and

6           (C) the extent to which there is full trans-  
7           parency about the nature of employment of  
8           such workers prior to being hired.

9           (5) The racial demographics and use of noncit-  
10          izen workers who are not lawfully present in the  
11          United States at covered establishments, including—

12           (A) the extent to which such workers are  
13           unable to speak out for fear of retaliation; and

14           (B) whether any collusion between Federal  
15           immigration offices and covered establishments  
16           have the effect of intimidating and silencing  
17           such workers.

18 **SEC. 303. GAO REPORT ON LINE SPEEDS.**

19          (a) IN GENERAL.—Not later than 90 days after the  
20          end of the covered period, the Comptroller General of the  
21          United States shall carry out, and submit to Congress a  
22          report containing, a review of the actions taken by the Sec-  
23          retary, the Secretary of Labor, and the Secretary of  
24          Health and Human Services in response to the COVID—

1 19 pandemic to determine the effectiveness of those ac-  
2 tions in protecting animal, food, and worker safety.

3 (b) CONTENTS.—The review carried out under sub-  
4 section (a) shall include information on, and an analysis  
5 of, with respect to covered establishments—

6 (1) all policies and regulations relating to in-  
7 spection of those establishments that have been im-  
8 plemented by the Secretary, the Secretary of Labor,  
9 and the Secretary of Health and Human Services  
10 during the COVID–19 emergency and the covered  
11 period;

12 (2) the pandemic emergency preparedness plans  
13 of those establishments;

14 (3) the extent to which those establishments  
15 have implemented guidance and recommendations to  
16 space workers 6 feet apart on production lines and  
17 in break rooms, locker rooms, and all other work-  
18 spaces;

19 (4) the extent to which those establishments  
20 maintain policies and procedures that discourage  
21 workers from reporting exposure, seeking treatment,  
22 or remaining in isolation, including—

23 (A) bonus or work incentive programs; and

24 (B) sick leave that does not cover the full  
25 pay of a worker;

1           (5) the extent to which those establishments  
2 provide communications and training about COVID–  
3 19 in a language and at a literacy level workers un-  
4 derstand;

5           (6)(A) the quantity and quality of face masks  
6 and personal protective equipment, such as face  
7 shields and respirators, made available to workers at  
8 those establishments;

9           (B) whether the face masks and personal pro-  
10 tective equipment are provided to the workers free of  
11 charge; and

12           (C) usage of the face masks and personal pro-  
13 tective equipment by the workers;

14           (7) any guidance provided to inspectors of those  
15 establishments by the Secretary, the Secretary of  
16 Labor, or the Secretary of Health and Human Serv-  
17 ices during the COVID–19 emergency;

18           (8) actions taken by the Secretary, the Sec-  
19 retary of Labor, and the Secretary of Health and  
20 Human Services to protect workers, animals, and  
21 food at establishments that have reported cases of  
22 COVID–19;

23           (9) all humane handling reports issued, and en-  
24 forcement actions taken, by the Secretary during the  
25 COVID–19 emergency pursuant to—

1 (A) Public Law 85–765 (commonly known  
2 as the “Humane Methods of Slaughter Act of  
3 1958”) (7 U.S.C. 1901 et seq.); and

4 (B) good commercial practices regulations  
5 promulgated under the Poultry Products In-  
6 spection Act (21 U.S.C. 451 et seq.);

7 (10) the impact of faster line speeds on the  
8 ability of those establishments to maintain protec-  
9 tions for workers;

10 (11) any instance of interference by a Federal  
11 agency with the contents of any report of findings  
12 based on a review of a covered establishment experi-  
13 encing an outbreak of COVID–19 conducted by per-  
14 sonnel of the Centers for Disease Control and Pre-  
15 vention; and

16 (12) any instance of interference by a Federal  
17 agency with the recommended actions of a State or  
18 local health department to close a covered facility ex-  
19 perienceing COVID–19-related deaths and disease.