

Protecting America's Meatpacking Workers Act of 2021

Sponsored by Senator Cory Booker & Representative Ro Khanna

Background

Our nation's food system has long been broken, but the COVID-19 pandemic shined a light on just how broken the system truly is for workers, farmers and ranchers, animals, and consumers. To tackle these systemic issues, Senator Booker has introduced a wide range of legislation to make our food system more resilient, fair, and just.

Unfortunately, the workers responsible for getting food from the farm to our table are often overlooked and underappreciated. It is clear that our food system is not safe for most farm and food chain workers including meatpacking workers that, due to the power and influence of large multinational corporations, have been forced to risk their lives, crowded into meatpacking plants that became hotbeds for COVID-19 outbreaks. In fact, recent reports indicate that over 59,000 meatpacking workers employed by JBS, Tyson, Smithfield, Cargill, and National Beef contracted COVID-19, and at least 269 died. However, meatpacking workers have long faced exploitative and dangerous work conditions—such as double the rate of amputations as the average worker—coupled with a fear of speaking out. We must end this era of abusive practices and begin to ensure that all workers have a safe and fair opportunity to earn a living.

The Protecting America's Meatpacking Workers Act would provide essential protections to meatpacking workers and is a critical piece in transforming our food system to one that is rooted in resilience, fairness, and justice. However, without systemic reforms such as creating a fair market that allows independent farmers, ranchers and robust local food systems to thrive and ensuring that consumers can actually identify where their food comes from, food giants may simply shift the burden of their unfair system to others in the supply chain or import more unsustainable meat from other parts of the world.

Section by Section Summary

Title I – REFORMS TO PROTECT MEAT & POULTRY PROCESSING WORKERS

Subtitle A – Department of Agriculture

Sec. 101. Rule on Increased Line Speeds at Meat and Poultry Establishments – Prevents the Secretary of Agriculture from issuing a line speeds waiver unless meat and poultry plants agree to a USDA inspection which shows that an increase in line speeds will not adversely impact worker safety. Inspections must include (1) an ergonomic analysis of all jobs which may experience an increase in working pace; (2) an assessment of rates of musculoskeletal disorders among workers; (3) steps the establishment is taking to mitigate those disorders; and (4) a review of the impact of any proposed line speed increases on the pace of work.

Subtitle B – Fair Attendance Policies

Sec. 111. Definitions – Sets forth definitions of terms used in the current bill.

Sec. 112. Requirements for Employers Relating to No Fault Attendance Policies or Attendance Systems – Outlines specific requirements that establishments holding a no fault attendance policy must follow such as distributing the policy to workers in a timely fashion and in writing. The no fault attendance policy must also explicitly state that employees will be excused from work under certain

conditions such as medical emergencies without facing disciplinary action and provide a reasonable amount of detail about all Federal, State, and local laws that provide legally protected leave.

Sec. 113. Remedies and Enforcement – Provides civil action powers, remedies, and procedures per section 107 of the Family and Medical Leave Act of 1993 to any person alleging an unlawful employment practice; outlines penalties covered establishments will face if engaging in such practices.

Sec. 114. Rulemaking – Requires the Secretary of Agriculture to collaborate with the Equal Employment Opportunity Commission and the heads of other relevant Federal agencies to issue regulations to carry out this subtitle within 2 years of the date of enactment of this act.

Sec. 115. Relationship to Other Laws – Establishes that nothing in the current bill should serve to invalidate or limit other Federal or State laws that provide leave rights to employees.

Sec. 116. Waiver of State Immunity – Establishes that States shall not be immune to Federal or State court action for violation of this subtitle.

Sec. 117. Severability – States that if any part of this subtitle is found invalid, the remainder shall not be affected.

Subtitle C – Occupational Safety and Health Administration Reforms

Sec. 121. Definitions – Sets forth definitions of terms used in the current bill.

Sec. 122. Ensuring Compliance with Employee Rights to Use Toilet Facilities at Covered Establishments – Requires the Secretary of Labor to verify that meat and poultry plants are allowing employees to leave their workstations to use a toilet facility when needed and without punishment, and that employees are not restricted from using said facilities by factors such as inadequate facilities, waiting lists, or requiring employees to sign out or get a key in order to use facilities.

Sec. 123. Occupational Safety and Health Standards to Protect Employees in Covered Establishments – Requires the Secretary of Labor to propose and finalize a standard for ergonomic program management, which should include information on hazard identification and control, employee training on occupational risk factors including musculoskeletal disorders, and medical management. Requires the Secretary to propose and finalize a standard to protect employees from delays in medical treatment referrals following a workplace injury or illness. Requires the Secretary to propose and finalize a standard to protect employees from airborne contagions.

Sec. 124. Permanent Regional Emphasis Inspection Program; Expanding Inspections – Requires the Secretary of Labor to implement a regional emphasis inspection program for meat and poultry plants which will cover multiple aspects of worker safety including amputation hazards, ergonomics, hazards related to line speeds, bathroom breaks, use of certain antimicrobials, and temperatures of work sites. Allows inspections to be expanded to all areas of the meat or poultry plant when information is presented regarding additional possible dangers.

Sec. 125. Representative During Physical Inspections - Requires the Secretary of Labor to publish a regulation allowing meat or poultry plant employees the ability to authorize a representative, who may be a member of a worker-based community group, to accompany physical inspections.

Sec. 126. Enhanced Protections from Retaliation – Strengthens existing protections against retaliation from employers when employees refuse to perform work duties under conditions of

reasonable apprehension and sets up a system wherein employees may file a complaint in the event retaliation has occurred; outlines the process by which complaints will be reviewed.

Sec. 127. Regulations to Restore a Column on Required Records of Work-related Musculoskeletal Disorders – Requires the Secretary of Labor to issue a final rule on occupational injury and illness reporting.

Sec. 128. Funding for Additional OSHA Inspectors – Appropriates funds for the hiring of additional OSHA inspectors.

Sec. 129. OSHA Reporting – Requires the Secretary to establish a standardized reporting process for use during pandemics, which will require meat or poultry plants to report the number of employees who have become ill, their racial demographics, and their employment status; further requires that this information be made publicly available.

Sec. 130. Private Right of Action – Provides a private right of action for individuals harmed by meat or poultry plants' failure to comply with the OSH Act, subsequent regulations, or this Act.

Sec. 131. Injunction Proceedings – Provides employees at an establishment where the Secretary of Labor has filed an action to get an injunction to stop an imminent danger the right to intervene in that action as a matter of right, which helps workers protect their interests, and ensures that employees can bring an action to compel the Secretary to act regardless of whether an inspector says there is or is not an imminent danger.

Subtitle D – Savings Provision

Sec. 136. Savings Provision – States that nothing in this title diminishes rights, privileges, or remedies available to employees under the law or under a collective bargaining agreement.

Title II – FARM SYSTEM REFORMS

Sec. 201. Expanded Meat & Poultry Processing Grants - Requires that all grants funded under USDA AMS for Expanded Meat & Poultry Processing include labor peace agreements. Prohibits processing plants that receive a grant from merging with, or being sold to, meat and poultry packers with over 10 percent of market share for a period of 10 years. Provides additional funding.

Sec. 202. Local Agriculture Market Program - Extends funding for LAMP.

Sec. 203. Restoration of Mandatory Country of Origin Labeling for Beef and Pork; Inclusions of Dairy Products - Restores mandatory country of origin labeling requirements for beef and pork and extends country of origin labeling to include dairy products.

Sec. 204. Definitions in Packers and Stockyards Act, 1921 – Sets forth definitions of terms used in the Packers and Stockyards Act and in the current bill.

Sec. 205. Unlawful Practices – Forbids certain practices in livestock buying and selling such as use of a contract that does not contain a firm base price, is not offered for bid in an open and public manner, is based on a formula price, or provides for the sale of a number of livestock animals over a given amount. Forbids packers from owning or feeding livestock directly except under certain outlined conditions; taking actions that would adversely affect competition; engaging in unfair, discriminatory, and deceptive practices and devices; limiting the legal rights of livestock producers; terminating a contract with a livestock producer except under certain conditions; and misleading livestock producers. Forbids packers from retaliation against livestock producers, describes what constitutes lawful communication, and forbids the use of tournament systems for poultry.

Sec. 206. Spot Market Purchases of Livestock by Packers – Defines the requirements for a purchase and sale of livestock by a packer from a producer, including base price, length of time to slaughter, competitive bidding at the time the sale is made, and inclusion of non-affiliated producers.

Sec. 207. Investigation of Live Poultry Dealers – Clarifies existing authority over live poultry dealers as stated in the Packers and Stockyards Act.

Sec. 208. Award of Attorney Fees – Specifies that the court must award an attorney's fee as part of the costs to a prevailing plaintiff in a civil action under section 204 of the Packers and Stockyards Act.

Sec. 209. Technical Amendments – Various amendments which clarify the Packers and Stockyards Act.

Title III – GAO REPORTS

Sec. 301. Review and Report on Fragility and National Security in the Food System - Requires GAO to conduct and submit a report to Congress on the fragility of our nation's food system with respect to meat and poultry.

Sec. 302. Review and Report on Racial and Ethnic Disparities in Meat and Poultry Processing - Requires GAO to conduct and submit a report to Congress containing a review of impacts to meat and poultry plant workers and the use of temporary workers, incarcerated workers, undocumented workers, and workers from the H-2B nonimmigrant program or any refugee program in meat and poultry plants.

Sec. 303. GAO Report on Line Speeds – Requires GAO to conduct and submit a report to Congress containing a review of the actions taken by the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services in response to the COVID-19 pandemic to determine the effectiveness of those actions in protecting animal, food, and worker safety.