

»» Help Pass MCOOL & 50/14!

MCOOL & 50/14 Toolkit

CONGRESS: Pass MCOOL & 50/14!

Call (202) 224-3121 and ask your Senators and Representative to pass S.2716 the American Beef Labeling Act for mandatory country of origin labeling (MCOOL) for beef, S.949 the 50/14 Cattle Market Protection Bill, and S.3285 and H.R.6250 the Protecting America's Meatpacking Workers Act.



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We Need Your Calls!

Call the U.S. Capitol Switchboard at 202-224-3121

Script:

"Hello, my name is _____ and I'm a [cattle producer or consumer] from [City/State]. Our cattle market is broken and has been for many years. Beef prices have skyrocketed while cattle prices are too low for ranchers to remain profitable. I need you to fix this as quickly as possible, you can do that by supporting Senate Bills S.2716, S.949, and S.3285 and H.R.6250.

Senate Bill 2716 is the American Beef Labeling Act that restores mandatory country of origin labeling (MCOOL) for beef and will allow consumers to choose USA born, raised and harvested beef or foreign beef.

Senate Bill 949 is the cattle market protection bill (50/14) that requires large packers to buy 50% of their cattle in the cash market and to slaughter those cattle within 14 days.

Senate Bill 3285 (and its House Bill 6250) is the Protecting America's Meatpacking Workers Act (PAMWA) that includes all the important reforms needed to fix the broken cattle market such as immediate implementation of MCOOL for beef, the requirement for packers to buy 50% of their cattle in the cash market, a ban on unpriced contracts and a ban on packer ownership of cattle.

These reforms will immediately fix our cattle market and protect our nation's food supply. Thank you.

S.2716 and S.949 Action Alert

MCOOL: On Sept. 13, 2021, mandatory country of origin labeling (MCOOL) for beef was introduced by Senators Thune (R-S.D.), Tester (D-Mont.), Rounds (R-S.Dak.) and Booker (D-N.J.). It is Senate Bill 2716 (S.2716). It's the "American Beef Labeling Act of 2021." (As of Jan. 4, 2022, Sens. Lujan (D-N.Mex.), Hoeven (R-N.Dak.), Lummis (R-Wyo.), Heinrich (D-N.Mex.), Barrasso (R-Wyo.), and Gillibrand (D-N.Y.) are also S.2716 cosponsors.)

S.2716 undoes the repeal of MCOOL for beef. It puts MCOOL for beef back into the existing MCOOL law, which still requires country of origin labels on such foods as lamb, chicken, fish, nuts, and fruits and vegetables.

It also addresses World Trade Organization (WTO) concerns by directing the U.S. Trade Ambassador and Agriculture Secretary to determine a means of reinstating MCOOL in a manner that complies with WTO rules.

Even if a WTO compliant means is not determined, MCOOL for beef will become law no later than 1-year after it is passed by Congress.

50/14: The fed cattle market is plagued by too many contracts and too few cash sales. Senators Grassley (R-Iowa) and Tester (D-Mont.) recently introduced the 50/14 Cattle Market Protection Bill, S.949, that increases the number of cattle sold in the negotiated cash market and decreases the number of cattle sold under captive supply agreements. (As of Nov. 1, 2021, Sens. Smith (D-Minn.), Ernst (R-Iowa), Wyden (D-Ore.), Rounds (R-S.Dak.), Booker (D-N.J.), Daines (R-Mont.) and Hyde-Smith (R-Miss.) are S.949 cosponsors.)

We must preserve the integrity of the cash market and the 50/14 bill is the most effective way to get there. S.949 will require at least 50% of fed cattle be sold competitively in the cash market, and that they be killed within 14 days, so they can't be converted into captive supplies.

The packers' allies are trying to derail S.949. They've enlisted economists to claim that limiting captive supplies will cost cow/calf producers, backgrounders and feeders billions of dollars. They claim captive supplies are needed to ensure a steady supply of the right kind of cattle, which they say lowers the cost of beef to consumers.

But captive supply arrangements are only between the feeder and the packer. So how do feeders ensure they have enough of the right kind of cattle to meet the criteria for captive supply contracts? After all, it's up to the cow/calf producer to raise enough of the right kind of calves.

The answer is: The feeder goes out and bids for enough of the right kind of calves in the competitive cash marketplace.

If feeders can get enough of the right kind of cattle in the competitive cash marketplace, why do packers need a captive supply contract for the last four to six months of their lives?

They don't! But Congress has been hoodwinked into believing they do. If you carry their argument further, like as far as they pushed Congress in the hog market, virtually everything will be sold by contract from birth to plate, which means cow/calf producers and backgrounders will have to enter marketing contracts or they won't have a market for their feeder cattle.

Action: We need your help! We must get as many Senators as possible to cosponsor Senate Bills S.2716 and S.949. If your Senators are not already cosponsors, please call (202) 224-3121 and ask for your Senator(s) and explain just how broken your markets are. Tell them your personal stories of how the broken market is affecting your ranching operations.

Social media is a quick and easy way to spread MCOOL and 50/14 awareness.

Comment, like and share posts. Follow R-CALF on Facebook, Instagram, Twitter, LinkedIn and YouTube.

Use the hashtags **#labelourbeef** and **#fixourmarket**.

HOW A BILL BECOMES A *law*

INTRODUCED

Bill is introduced in the U.S. Senate.



SENATE COMMITTEE

Bill sent to Senate committee.

S.2716, S.949 & S.3285 are here.

APPROVAL

Approved Bill is sent to the floor of the Senate.



VOTE

If a majority of Sens. (51) vote 'yes' the Bill passes the Senate & goes to the House of Representatives.

HOUSE COMMITTEE

Bill sent to House committee.

H.R.6250 is here.



APPROVAL

Approved Bill sent to the floor of the House.

VOTE

If a majority of Reps. (218) vote 'yes' the bill passes House & goes to the President.



PRESIDENT

The President can sign & pass the bill, or refuse to sign & veto it. A 2/3 majority vote in the Senate & House is required to override the veto.

We Need Your Letters to the Editor

Congressional offices all follow Letters to the Editors in their newspapers. Write your own Letter to the Editor to newspapers in your state. Below is an example of a Nebraska member's Letter to the Editor. More examples on www.labelourbeef.com.

Example Letter

I am writing to all my fellow cattle producers and beef consumers. Are you feeling the pinch with increased expenses and getting basically the same price for your calves since 2016? Or if you have a load of cattle finished and can't get a buyer out to even look at them? Seen a crazy increase in the ribeyes or burger you buy in the grocery store? This is not by accident, nor will things change unless you take action.

There are two major bills being discussed right now in the Senate Ag committee, one is the Thune/Tester/Rounds/Booker Mandatory Country of Origin Labeling (MCOOL) Bill (S.2716). This will bring back the label on the beef in the grocery store, "Born, raised and processed in the USA." Right now there is no such labeling on beef. Next time you're in the grocery store take a look at the meat case and look for yourself. The other is the Grassley/Tester 50/14 Cattle Market Protection Bill (S.949). This will make the packers buy 50% of their cattle through cash bidding and take the cattle to slaughter in 14 days. This will bring back price discovery in the market through actual cash bidding. The large number of captive supply cattle held by packers is making it very difficult for cash sellers to access the market, which is why immediate action is needed.

Call (your state's) Senators and Representative at (202) 224-3121 and tell them you want to see where your beef comes from in the store and tell them you want fair competition in the marketplace on your cattle. The Dusty Johnson bill that passed is not enough to bring back transparency and competition in the marketplace. The cattle industry is headed just like the hogs went, vertical integration, and I'm certain that didn't help anyone that's trying to make a living farming in northeast Nebraska or southeast South Dakota.

Matthew Paulsen
Publishing Credit: Crofton Journal (Nebraska)

S.2716

To amend the Agricultural Marketing Act of 1946 to establish country of origin labeling requirements for beef, and for other purposes.

IN THE SENATE OF THE UNITED STATES

September 13, 2021

Mr. Thune (for himself, Mr. Tester, Mr. Rounds, and Mr. Booker) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Marketing Act of 1946 to establish country of origin labeling requirements for beef, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Beef Labeling Act of 2021".

SEC. 2. COUNTRY OF ORIGIN LABELING FOR BEEF.

(a) Definitions.—Section 281 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638) is amended—

(1) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) BEEF.—The term 'beef' means meat produced from cattle (including veal)."; and

(3) in subparagraph (A) of paragraph (2) (as so redesignated)—

(A) in clause (i), by inserting ", beef," after "lamb"; and

(B) in clause (ii), by inserting ", ground beef," after "lamb".

(b) Notice Of Country Of Origin.—Section 282(a)(2) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638a(a)(2)) is amended—

(1) in the paragraph heading, by inserting "BEEF," after "FOR";

(2) in each of subparagraphs (A) through (D), by inserting "beef," before "lamb" each place it appears; and

(3) in subparagraph (E)—
(A) in the subparagraph heading, by inserting "BEEF," after "GROUND"; and
(B) by inserting "ground beef," before "ground lamb" each place it appears.

(c) Means Of Reinstating MCOOL For Beef.—
(1) DETERMINATION OF MEANS.—Not later than 180 days after the date of enactment of this Act, the United States Trade Representative, in consultation with the Secretary of Agriculture, shall determine a means of reinstating mandatory country of origin labeling for beef in accordance with the amendments made by subsections (a) and (b) that is in compliance with all applicable rules of the World Trade Organization.

(2) IMPLEMENTATION OF MEANS.—Not later than 1 year after the date of enactment of this Act, the United States Trade Representative and the Secretary of Agriculture shall implement the means determined under paragraph (1).

(d) Effective Date.—The amendments made by subsections (a) and (b) take effect on the earlier of—

(1) the date on which the Secretary of Agriculture publishes a determination in the Federal Register that the means determined under paragraph (1) of subsection (c) have been implemented under paragraph (2) of that subsection; and

(2) the date that is 1 year after the date of enactment of this Act.

Resolution to Support Mandatory COOL for Beef (S.2716)

Share this with your state legislators and ask them to introduce in your 2022 state legislative session.

WHEREAS: Mandatory country of origin labeling (MCOOL) for beef enables United State cattle producers to compete in the retail grocery market by empowering consumers to choose to purchase their superior born, raised and harvested in the U.S.A. beef product, or to choose a foreign beef product imported from any one of the approximately 20 countries from which the U.S. imports beef and/or cattle; and

WHEREAS: When U.S. consumers choose to purchase an exclusively U.S. beef product, the demand for cattle exclusively born and raised in the U.S. increases; and

WHEREAS: Without MCOOL, multinational beef packers and other importers can manage the demand for cattle exclusively born and raised in the U.S. by offering consumers substitute beef products sourced from foreign sources without the consumer's knowledge; and

WHEREAS: Such is the case in today's beef market as the U.S. Department of Agriculture estimated in 2012 that 18% of the available beef in the U.S. market is sourced either as an imported beef product or from imported cattle converted to beef in a U.S. packing plant.

NOW THEREFORE BE IT RESOLVED: The XXXXXXXXXX strongly supports the American Beef Labeling Act of 2021 (S.2716), and encourages all U.S. Senators and Representatives to cosponsor and quickly pass this measure so U.S. consumers can begin choosing from where they want their beef produced and so U.S. cattle producers can effectively compete in the domestic market with lower-cost and undifferentiated imported beef products that currently function as direct substitutes for beef exclusively sourced from cattle born and raised in the U.S.

Congress: Vote 'Yes' on S.2716, the American Beef Labeling Act

S.2716 will restore mandatory country of origin labeling (MCOOL) on beef by inserting 'beef' and 'ground beef' back into the existing 2002 MCOOL law, which continues today to require country of origin labels on other foods, such as lamb, chicken, fish, nuts, and fruits and vegetables.

Summary: Congress originally passed mandatory country of origin labeling (MCOOL) for beef and other foods in the 2002 Farm Bill. Canada, Mexico and the largest U.S. beef packers have fought against MCOOL for beef ever since. Canada and Mexico filed a complaint at the World Trade Organization (WTO) in 2009 and the WTO eventually ruled that MCOOL treated imported livestock less favorably than domestic livestock. Rather than seek a diplomatic solution to address Canada and Mexico's concerns – as the U.S. has done for several other adverse WTO rulings affecting other products – Congress conceded to the WTO's ruling and repealed MCOOL for beef in late 2015. Specifically, Congress used the Consolidated Appropriations Act of 2016 to remove the terms "beef" and "ground beef" from the existing MCOOL law, which continues today to require country of origin labels on other foods, such as lamb, chicken, fish, and fruits and vegetables.

The New MCOOL Bill (S.2716): The bipartisan "American Beef Labeling Act of 2021" (S.2716) was introduced in the U.S. Senate on September 13, 2021, by Senators John Thune (R-S.Dak.), Jon Tester (D-Mont.), Mike Rounds (R-S.Dak.) and Cory Booker (D-N.J.). The bill was referred to U.S. Senate Committee on Agriculture, Nutrition, and Forestry. S.2716 undoes the repeal that Congress did in the Consolidated Appropriations Act of 2016 by simply reinserting the terms "beef" and "ground beef" back into the existing MCOOL law, and it requires MCOOL to be implemented no later than 1-year after the bill's enactment. During the 1-year after enactment, S.2716 directs the U.S. Trade Ambassador and U.S. Agriculture Secretary to determine a means of reinstating MCOOL in a manner that complies with WTO rules. The two cabinet members are then directed to implement such "means" within 1-year of enactment. However, if they have not implemented such "means" by the 1-year anniversary date of enactment, MCOOL for beef will automatically go into effect. Thus, MCOOL for beef will become a reality no later than 1-year after S.2716 is passed into law.

Why the U.S. Should Immediately Pass MCOOL for Beef (S.2716)

- » In April 2017, Former President Trump issued his Buy American Hire American Executive Order to help stimulate America's economy. In January 2021, President Joe Biden issued his Buy American Executive Order to accomplish the same goal.
- » Citizens, however, still cannot choose to buy American-born and -raised beef because Congress repealed mandatory country of origin labeling (MCOOL) for beef in 2015. Since that time, consumers have been deprived of their right to choose beef produced in their preferred country.
- » Recognizing that lower-cost imports can reduce the demand for domestic meat animals, current U.S. labeling law requires MCOOL labels on chicken, lamb, goat meat, fish and shellfish, and venison. Beef and pork are now outliers and consumers cannot distinguish beef produced exclusively in America versus beef produced in whole or in part in a foreign country.
- » The U.S. is the world's second largest beef importer. Each year importers ship about 2 million cattle and 3 billion pounds of beef into America from about 20 countries. These imports are direct substitutes for U.S. cattle and beef and represent about 20% of U.S. beef production. These imports can reduce the demand and price of domestic cattle because demand and price are sensitive to changes in supplies, including imported supplies.
- » Not only is beef being sold in the U.S. without an origin label; but also, the "Product of U.S.A." label is being applied to imported beef that undergoes only minor processing in the U.S., such as being unpackaged and repackaged, and to beef derived exclusively from imported cattle from Canada and Mexico.
- » When MCOOL for beef was in effect in 2013-2015, cattle prices paid to American cattle farmers and ranchers reached historic highs. In 2016, the year after MCOOL for beef was repealed, U.S. cash receipts from the sale of cattle fell \$17 billion when compared to 2014.

(continued on next page)

- » When MCOOL for beef was in effect, the rural economy was significantly stimulated by the resulting higher cattle prices. This was because:
 - o The U.S. cattle industry has the greatest impact on rural America because it is the largest segment of American agriculture, generating about \$67 billion in cash receipts annually.
 - o America has 915,000 farms/ranches with cattle and calves, representing over 40% of the nation's total of 2.2 million farms and ranches.
- » Reinstating MCOOL for beef by passing the "American Beef Labeling Act of 2021" (S.2716) would:
 - o Strengthen the domestic cattle industry by allowing consumers to support America's live cattle supply chain.
 - o Prevent ongoing industry consolidation by promoting competition at the retail counter.
 - o Prevent consumer deception caused by affixing the USA label on beef derived from foreign cattle.
 - o Provide consumers with more choices and more pricing options.
 - o Allow consumers to express their nationalism/patriotism.
 - o Allow consumers to selectively avoid beef from countries that may have food safety problems.
 - o Create new opportunities to rebuild America's cattle herd and to attract new entrants into the ranching sector as undifferentiated imports could no longer be used to fill domestic supply gaps.

History of Voluntary COOL Programs

- Prior to the 2002 passage of today's country of origin labeling (COOL) law, the U.S. Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) and Agricultural Marketing Service (AMS) offered a voluntary labeling program for meat products. During its first three years of operation, no suppliers participated in the program. 68 Fed. Reg., at 61,956, col. 1 (Oct. 30, 2003).
- The 2002 COOL law was initially implemented by USDA as a voluntary COOL program that went into effect on October 11, 2002. 67 Fed. Reg., at 63,367, col. 2 (Oct. 11, 2002). The program reserved the U.S.A. label only for meat derived from animals that were exclusively born, raised and slaughtered in the United States. Id., at 63,373, cols. 2-3. By mid-2005, the Congressional Research Service reported that few if any retailers opted for the voluntary program. CRS Report, 97-508 ENR, June 3, 2005, at CRS-3. The voluntary program remained in effect for six years, until September 30, 2008, which was the date that the voluntary COOL program became mandatory. 73 Fed. Reg., 45106, (Aug. 1, 2008).
- In 2005 opponents to mandatory COOL introduced legislation to convert mandatory COOL to voluntary COOL for meat and they adopted the same born, raised and slaughtered requirement contained in USDA's voluntary program. H.R. 2068 109th Congress. This legislation to convert COOL from mandatory to voluntary was introduced by Representative Goodlatte (R-Va.) and did not pass largely because of R-CALF USA's strong opposition.
- When it issued its final COOL rule in 2009, USDA reaffirmed that there was a lack of widespread participation in voluntary labeling programs. 74 Fed Reg, at 2,682 (Jan. 15, 2009).
- Thus, the U.S. had already implemented a voluntary COOL program using the very "Born, Raised, and Slaughtered" standard for the U.S.A. label that is now included in Senator Mike Rounds "U.S.A. Beef Act" (S.2623). And, this voluntary COOL program was in effect for many years. This new effort regarding voluntary labels, however, remains important

because the past Administration stated it was considering allowing the "Product of U.S.A" label on beef products from animals that were merely slaughtered in the U.S., meaning it could be used on beef from imported cattle. The National Cattle-men's Beef Association (NCBA) has also petitioned the USDA to conduct a rulemaking to allow beef from foreign cattle to be affixed with the "Product of U.S.A. label."

· What also didn't work was the mandatory COOL law for beef that was partially implemented in 2009 (recall this partial implementation allowed multiple labels such as "Product of U.S.A., Mexico, and Canada" so consumers still could not distinguish the superior U.S.A. product). In May of 2013 the COOL law was fully implemented by requiring labels that stated where the animal was born, raised and slaughtered. When that occurred, U.S. cattle producers were finally able to compete against imported beef in their own domestic market. In 2015 Congress repealed COOL for beef and the USDA began allowing packers to voluntarily affix the "Product of U.S.A." label on foreign beef that was merely repackaged in a U.S. processing plant, an ongoing practice that is highly deceptive to consumers and harmful to U.S. cattle farmers and ranchers.

· On September 13, 2021, Senators John Thune (R-S.Dak.), Jon Tester (D-Mont.), Mike Rounds (R-S.Dak.), and Cory Booker (D-N.J.) introduced the "American Beef Labeling Act of 2021," (S.2716) which will reinstate mandatory COOL for beef, thus reinstating the requirement that beef be labeled as to where the animal was born, raised and harvested. This new legislation will effectively end the deceptive labeling practices currently occurring under today's voluntary COOL labeling regime and will accurately inform consumers of the true origins of beef.

· R-CALF USA urges swift passage of S.2716.

Importers' Myths Preventing Consumers from Choosing U.S.A. Beef

Both former President Trump's and President Biden's "Buy American" Executive Orders highlight the need to restore mandatory country of origin labeling (MCOOL) for beef and a bipartisan group of Senators have responded by introducing the "American Beef Labeling Act of 2021," (S.2716) that reinstates MCOOL for beef, which will profoundly benefit America's consumers and America's cattle farmers and ranchers. Unfortunately, the importers and all their entrenched Washington, D.C., lobbyists and insiders continue spreading false information designed to derail S.2716.

Importers' Myths

COOL Truths

The U.S. cannot disregard the World Trade Organization's (WTO's) ruling against MCOOL.

S.2716 directs the U.S. Trade Ambassador and the Secretary of Agriculture to develop a WTO-compliant means of reinstating MCOOL for beef. It is premature to presume the two cabinet members cannot develop such a means before they have tried. It is also premature to expect any WTO ruling similar to the blatantly conflicted 2015 ruling because Ricardo Ramirez-Hernandez, a Mexican national and attorney in service to Mexico, will no longer be the Presiding Member of the Appellate Body that, unsurprisingly, ruled in favor of Mexico and Canada. Also, the U.S. did not seek a diplomatic resolution before repealing MCOOL as it did in other cases it lost at the WTO. But now, S.2716 directs two cabinet members to explore such a remedy.

If consumers wanted MCOOL, the marketplace would voluntarily apply MCOOL labels.

This is the problem: Importers are voluntarily applying the "Product of U.S.A." label, but they are putting it on imported beef products that are merely unwrapped and rewrapped in the U.S. and on beef derived exclusively from foreign cattle.

MCOOL harms American cattle producers by adding costs to the beef supply chain.

When MCOOL for beef was fully implemented (2013-2015), American cattle producers received historically high prices for their cattle and their profitability, as measured by returns per bred cow, were also at historical highs. In fact, USDA data show that returns per bred cow dropped 83% since MCOOL's repeal for beef (from 2015-2020). Beef supply chain costs may consist of packers having to source more domestic cattle in response to an increased demand for U.S. born and raised beef, and producers may experience the added cost of increasing their herd to meet an increased demand.

All beef is the same regardless of where the animal was born and raised.

This is false as other countries do not have identical environmental, production and food safety standards as the U.S. It is also irrelevant because a label stating "Born, Raised and Harvested in the U.S.A." distinguishes the product as one produced entirely under the U.S.'s food safety system and by America's farmers and ranchers.

MCOOL does not need to be mandatory as producers can voluntarily label their beef.

No, they cannot. In the multi-segmented cattle-to-beef supply chain, cattle producers sell live cattle to the packers that subsequently transform those cattle to beef. Thus, it is the packer and not the producer that can decide whether to label and, obviously, it is not in the packers' interest to inform consumers as to the true origins of their beef.

MCOOL disrupts the "integrated North American beef supply chain."

A handful of importers choose to purchase imported beef and cattle rather than American beef and cattle and they enjoy windfall profits by passing these cheaper, undifferentiated imports off to unsuspecting consumers as if they were American grown. They also use undifferentiated imports to fill any supply gaps, thus eliminating opportunities to rebuild the U.S. cattle industry and attract new entrants to the ranching sector. MCOOL will end the importers' exploitation of the lack of transparency in the market and allow the marketplace to determine the value of beef produced in each North American country.

MCOOL cannot be implemented without a national animal identification system.

This is false. MCOOL was effectively implemented from early 2013 through 2015 without a mandatory identification system. It relied on producer affidavits and a presumption of domestic origin (animals not bearing a permanent foreign import marking can be none other than exclusively born and raised in the U.S.)

MCOOL requires the segregation of imported cattle and imported beef and such segregation is difficult and costly.

MCOOL does not require segregation, but packers may choose to use the same protocols they employ for maintaining the identity of beef of differing quality grades, such as Prime, Choice, Select, etc., and for beef eligible for certain branded programs, such as Certified Angus Beef, or natural or organic programs, all of which require product tracking throughout the beef manufacturing process after the animal is harvested. The beef packing industry is fully adept at identifying and tracking beef products based on a wide range of production-based criteria that are not observable in the product itself.

MCOOL is unconstitutional.

The Washington, D.C. Appellate Court's 2014 en banc decision in *AMI, NCBA et al. v USDA et al.* upheld both the constitutionality and lawfulness of mandatory COOL for beef.

Talking Points: Senate Bill 2716 (S.2716)

1. MCOOL Enables Consumers - Not Packers - To Choose Where Beef is Produced
 - a. When the origin of beef is identified at the grocery store consumers can choose from which country they want their beef sourced.
 - b. When consumers make their origin-related choice, they send demand signals to beef packers telling them from where the beef must be sourced.
 - c. Without MCOOL, there is only a generic demand for beef and beef packers – not consumers – choose to source beef from any of 20 or so foreign countries.
2. MCOOL Will Prevent the Deceptive Practice of Placing “Product of U.S.A.” Labels on Foreign Beef that Continues Today
 - a. The U.S. Department of Agriculture (USDA) currently allows importers to label foreign beef products “Product of the U.S.A.” when the foreign beef is merely unwrapped and rewrapped.
 - b. Passage of the new MCOOL bill (S.2716) will permanently correct this deceptive practice because MCOOL will require foreign beef to retain its foreign label through retail sale, meaning all the way to the consumer.
3. MCOOL Will Enhance Our National Security, which Is Dependent on National Food Security
Because MCOOL affords consumers the right to choose from which country their beef is born, raised and harvested, it follows that consumers can choose to make the entire U.S. beef supply chain more robust, more resilient and more decentralized. Thus, MCOOL empowers consumers to ensure an abundant, safe supply of domestically produced beef.
4. MCOOL Helps Ensure Consumer Beef Prices Are Affordable
 - a. Without MCOOL, beef is a generic commodity and lower-cost, imported beef bears the same price tag as U.S. born and raised beef. This is because consumers cannot tell the difference.
 - b. When lower-cost imports are revealed with MCOOL, they will likely be priced lower than domestic beef. This will allow consumers to not only choose which product to purchase based on price; but also, the competition between lower-priced and higher-priced products will help keep all beef prices affordable.
5. MCOOL Empowers Consumers to Avoid Beef from Countries with Questionable Food Safety Records
 - a. Beef packers are currently importing beef from countries with records of violating food safety standards – notably Brazil’s numerous inspection violations, while other countries continue harboring dangerous livestock diseases – reports of foot-and-mouth disease in Namibia, Africa and Brazil, South America for example. And many other developing countries do not have the same livestock production standards required in the United States.
 - b. The U.S. has a history of waiting long periods before banning imports from countries with food safety infractions or disease outbreaks - with Brazil again providing a good example. Only with MCOOL can consumers make their own choice about how to respond to news reports of disease or safety problems in foreign countries.
6. MCOOL Empowers Consumers to Support America’s Independent Cattle Farmers and Ranchers Through Their Purchasing Choices
 - a. Consumers who wish to support America’s independent cattle farmers and ranchers can do so only if they can choose to purchase beef exclusively born, raised and harvested in the United States.
 - b. Obviously, MCOOL empowers consumers to choose to support the supply chains within the country of their choosing, which is the essence of competition.
7. MCOOL Will Prevent Ongoing Industry Concentration and Consolidation
 - a. Industry concentration is facilitated when concentrated beef packers access undifferentiated, lower-cost imports and use them as direct substitutes for U.S.-produced beef, thus reducing demand for cattle raised by American cattle farmers and ranchers.
 - b. With MCOOL, consumers will be empowered to disrupt the ongoing concentration and consolidation efforts of the big beef packers by choosing to support more local and regional beef packing facilities that exclusively produce beef born, raised and harvested in the United States.
8. MCOOL Will Create New Opportunities to Rebuild America’s Shrunken Cattle Herd and Attract New Entrants into the Cattle Farming and Ranching Sector
 - a. The big beef packing lobby contends that large quantities of foreign beef and cattle are continually needed to fill domestic supply gaps. However, when large quantities of undifferentiated foreign beef and beef from imported cattle are used to meet domestic beef demand, that beef and those cattle effectively shuts down opportunities for U.S. cattle farmers and ranchers to increase production of beef from animals exclusively born, raised and harvested in the U.S.
9. MCOOL Empowers Consumers to Express their Patriotism/Nationalism
Only with MCOOL can consumers express their patriotism/nationalism through their purchases by choosing between beef produced exclusively in the U.S. or beef produced in a foreign country.
10. MCOOL Will Help Revitalize America’s Rural Communities
For all the reasons stated in these talking points, MCOOL empowers consumers to help restore for America’s rural communities the economic opportunities lost because undifferentiated foreign beef, and worse, the mislabeling of foreign beef, has deprived America’s independent cattle farmers and ranchers the opportunity to compete in their own domestic market.

Where is Your Beef From?

Know what you're feeding your family.

Tell Congress vote 'YES' on S.2716 to restore mandatory country of origin labeling (MCOOL) for beef.

Call (202) 224-3121

www.labelourbeef.com



Keep Ranching Local.

Revive rural America.
Fix our cattle market.

Tell Congress vote 'YES' on
S.949 to stop further
consolidation of the U.S.
cattle industry.

Call (202) 224-3121
www.r-calfusa.com



S.949

To amend the Agricultural Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers.

IN THE SENATE OF THE UNITED STATES

March 24, 2021

Mr. Grassley (for himself, Mr. Tester, Mr. Hoeven, Ms. Smith, Ms. Ernst, Mr. Wyden, Mr. Rounds, Mr. Booker, and Mr. Daines) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

Chapter 5 of subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636 et seq.) is amended—

(1) by redesignating section 260 (7 U.S.C. 1636i) as section 261; and
(2) by inserting after section 259 the following:

“SEC. 260. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

“(a) Definitions.—In this section:

“(1) COVERED PACKER.—

“(A) IN GENERAL.—The term

‘covered packer’ means a packer that is required under this subtitle to report to the Secretary each reporting day information on the price and quantity of livestock purchased by the packer.

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

“(2) LIVESTOCK.—The term ‘livestock’ does not include—

“(A) pork;

“(B) poultry;

“(C) a dairy-bred, dairy-bred cross, or beef animal over 30 months of age; or

“(D) a foreign-born beef animal.

“(3) NONAFFILIATED PRODUC-

ER.—The term ‘nonaffiliated producer’ means a producer of livestock—

“(A) that sells livestock to a covered packer; and

“(B) (i) that has less than 1 percent equity interest in that covered packer;

“(ii) in which that covered packer has less than 1 percent equity interest;

“(iii) that has no officers, directors, employees, or owners that are officers, directors, employees, or owners of that covered packer; and

“(iv) that has no fiduciary responsibility to that covered packer.

“(4) SPOT MARKET SALE.—

“(A) IN GENERAL.—The term ‘spot market sale’ means a purchase and sale of livestock by a covered packer from a nonaffiliated producer—

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

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

“(iii) under which a reasonable competitive bidding opportunity exists on the date on which the agreement is entered into, as determined under subparagraph (B).

“(B) REASONABLE COMPETITIVE BIDDING OPPORTUNITY.—For the purposes of subparagraph

(A)(iii), a reasonable competitive bidding opportunity is considered to exist if—

“(i) no written or oral agreement precludes the nonaffiliated producer from soliciting or receiving bids from other covered packers; and

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

“(I) establishes the existence of an implied contract (as determined in accordance with the Uniform Commercial Code); and

“(II) precludes the nonaffiliated producer from soliciting or receiving bids from other covered packers.

“(b) General Rule.—Of the quantity of livestock that is slaughtered by a covered packer during each reporting week in each plant, the covered packer shall slaughter not less than 50 percent of the quantity through spot market sales from nonaffiliated producers.

“(c) Nonpreemption.—Notwithstanding section 259, this section does not preempt any requirement of a State or political subdivision of a State that requires a covered packer to purchase a greater percentage of livestock on the spot market than the percentage required under this section.

“(d) Relationship To Other Provisions.—Nothing in this section affects the interpretation of any other provision of this Act, including section 202.”



Congress: Vote 'Yes' on S. 949, the 50/14 Cattle Market Protection Bill

The new Bill S.949 is an amendment to the Livestock Mandatory Reporting Act of 1999.

Summary: The fed cattle cash or spot market is the holy grail for the entire U.S. live cattle industry. Not only is this where price discovery occurs for all fed cattle ready for slaughter, but the price discovered in the spot market translates into prices for all cattle throughout the live cattle supply chain, regardless of age or weight.

Therefore, the health and viability of the entire U.S. cattle industry – generating over \$67 billion in annual cash receipts, making it the largest sector of American agriculture – is absolutely dependent upon a robustly competitive and transparent spot market.

From the '80s through the '90s beef packing concentration and consolidation substantially reduced marketing outlets for fed cattle, both in terms of the number of packing companies and the number of packing plants. Today, only four major beef packing companies control approximately 85% of the fed cattle market and operate only about 24 packing plants.

Prior to the early- to mid-2000s, packers purchased the majority of their fed cattle needs from cattle feeders in the spot market. Thus, the price discovery market comprised the majority of all cattle sold. The 2007 Grain Inspection, Packers and Stockyards Administration (GIPSA) Livestock and Meat Marketing Study found that the use of alternative marketing arrangements is associated with lower cash market prices, and the average cattle price from the combination of spot market sales (both auction and direct trade sales) at \$132.32 per cwt is higher than the \$130.07 per cwt average cattle price generated from the combination of alternative marketing arrangements (forward contracts, marketing agreements, packer-owned and other purchase methods).

Since the mid-2000s, and due to the highly concentrated fed cattle markets, independent cattle feeders are increasingly subjected to market access risk, meaning risk of not being able to timely access the market when their cattle were ready for slaughter. Studies show this market access risk is the reason cattle feeders are willing to forego higher prices received in the cash market in exchange for guarantees of timely market access through some form of alternative marketing arrangement.

In 2005 about 52% of all fed cattle were still purchased in the spot market. But after 2005, the packers increasingly shifted larger and larger volumes of cattle out of the spot market and into

their alternative marketing arrangements. By 2015, the volume in the spot market had fallen below 22% nationally, and below 3% in the Texas-Oklahoma-New Mexico region.

Industry-wide concerns over the ultra-thin spot market have proven ineffective in restoring robustness to the spot market as evidenced by a meager 4% increase in the spot market volume from 2015 through 2018. Today, the volume of fed cattle sold in the spot market is even lower than it was in 2015. During the third quarter of 2021, it was below 18%.

Although some economists disagree – particularly those who have long supported the considerable concentration of the U.S. fed cattle market - economic studies do show that cattle prices are negatively impacted when packers procure more of their cattle through alternative marketing arrangements than from the spot market. For example, in a 2011 study, economists Andrew Lee and Man-Keun Kim found that beginning with only about 20% of procurement outside the spot market (meaning when the spot market volume is as high as 80%) fed cattle prices are negatively impacted.

This study reinforced work by Tian Xia and Richard Sexton, which in 2009 was cited by economist Steven Koontz and described as a finding that if packers secure 50% or more of their needed cattle supplies through means other than the spot market, then the fed cattle market price can be depressed to the monopsony level and maximum market power exerted.

The New Cattle Market Protection Bill: On March 24, 2021, Senators Charles Grassley (R-Iowa) and Jon Tester (D-Mont.), along with Senators Joni Ernst (R-Iowa), John Hoeven (R-N.Dak.), Tina Smith (D-Minn.), Mike Rounds (R-S.Dak.), Ron Wyden (D-Ore.), Steve Daines (R-Mont.) and Cory Booker (D-N.J.) reintroduced the Cattle Market Protection Bill (S.949).

The new Bill reverses the considerable volume erosion that has occurred in the spot market since the mid-2000s by requiring large packers with multiple plants to purchase at least 50% of their weekly cattle procurement needs for each of their plants from the spot market, and to harvest those cattle within 14 days of purchase.

The new Bill, therefore, restores the volume in the spot market to a minimum level – below which studies have found harm to cattle prices – necessary to preserve the competitive spot market for all cattle feeders and to protect the attendant price discovery function of the spot market for all of the U.S. cattle industry's cattle producers, both feeders and non-feeders.

Response to Opponents' Arguments Against 50/14

1. **Opponent:** Producers, not the federal government, know best how to market their cattle and there is no easy one-size-fits-all solution. We must not promote a more robust price discovery system at the expense of producers' ability to utilize value-based, consumer-driven marketing options.

Proponent: When there are only 4 packers controlling 85% of the market, the only real choices producers have are those the packers choose to offer. The problem the 50/14 Cattle Market Protection Bill (S.949) addresses is that packers are no longer offering a meaningful choice for producers to sell in the cash market, which is the most important market because it sets the base price for virtually all other markets. However, that market accounted for only 23.6% of cattle procurement on average over the past eight years. This chronic problem became acute last year when packers refused to bid for weeks for many producers' cash market cattle while they continued to procure imported cattle and slaughtered their formula cattle, a situation that correlated with the packers receiving record margins while producers suffered significant losses. In short, by thinning the cash market, packers have severely restricted producers' choice as well as their access to the marketplace.

2. **Opponent:** PRICE DISCOVERY is not the same as PRICE DETERMINATION. Enhanced price discovery doesn't necessarily translate to higher prices.

Proponent: While the price discovery that the Cattle Market Protection Bill will significantly improve will not always mean higher prices, it will reconnect the lost competitive relationship between supply and demand, that is, it will reconnect the value of cattle with the demand for beef. Price determination – the price a producer actually receives – relies on price discovery as its foundation, just as formula contracts rely on the price discovered in the competitive cash market to determine their foundational price.

3. **Opponent:** University research indicates a mandatory policy of 50% minimum negotiated cash transactions would result in a \$2.5 billion loss to the industry in the first year, and an overall loss of \$16 billion over 10 years. Source: <https://mt-beef.org/wp-content/uploads/2020/05/AAEA-Invited-Paper-Koontz.pdf>.

Proponent: This purely theoretical study ignores the real world in which billions of dollars have been and continue to be lost by cattle producers while the volume in the cash market remains extremely low. This is because since 2015 there has been a complete disconnect between live cattle prices and wholesale and retail beef prices. Cash receipts from the sale of cattle and calves fell from \$78.2 billion in 2015 to an estimated \$62 billion in 2020, a decline of \$16 billion that came out of the pockets of cow/calf producers, backgrounders and feeders. Further evidence of this complete disconnect includes that the cattle producer's share of the consumer's beef dollar fell to an all-time low of just 37 cents in 2020, compared to 52 cents in 2015.

4. **Opponent:** There are virtually no benefits to a mandatory minimum level of negotiated transac-

tions. Instead, a study commissioned by USDA affirms a mandatory minimum level of negotiated transactions could create considerable costs due to lost efficiency and product quality. These costs would be largely borne by cow/calf producers and consumers. Source: https://www.gipsa.usda.gov/p-sp/publication/live_meat_market.aspx.

Proponent: The obvious benefit of a mandatory minimum level of negotiated transactions is to counter the abusive practices of the oligopolistic beef packing industry, which has shrunk the price discovery cash market below the level needed to reflect competitive supply and demand forces in the marketplace. Just one of the "efficiencies" enjoyed by the concentrated packers is that they have reduced the cash trade window to just a short time period on Thursday or Friday of each week, which deprives cattle sellers the opportunity to bargain for higher bids. The first study listed on the following page found that over 75% of cash trade cattle occurred during this narrow end-of-week window. This is not a competitive market. The USDA and the other organizations opposed to the Cattle Market Protection Bill are the same groups that for the past two decades opposed every effort to prevent the U.S. cattle industry from suffering its currently dysfunctional fate. They opposed mandatory country of origin labeling (MCOOL), the ban on packer ownership of livestock, a ban on un-priced formula contracts, and all previous cattle market protection bills, to name a few. The result has been a cattle industry continually shrinking in terms of number of producers, number of cattle, number of marketing outlets, number of cattle feeders, share of the consumer's beef dollar, returns to cattle feeding, and returns to cow/calf producers. Further evidence is the inability of the nation's cattle producers to benefit from record beef exports, near record beef demand, and the consumer's willingness to pay all-time record prices for beef. These groups and USDA have neither offered nor implemented any solutions to reverse the U.S. cattle industry's downward trajectory.

5. **Opponent:** Abundant research at various land-grant institutions on the impacts of mandatory minimum negotiated trading volumes show that limiting the use of value-based marketing options in the beef industry will decrease efficiency, increase processing and marketing costs, and potentially reduce beef product quality.

Proponent: What is important to note is that opponents do not use the word "competition" or the phrase "market power." They are silent on these terms because they believe achieving market "efficiency" is more important than preserving marketplace competition. The notion that increased competition, which will occur under the Cattle Market Protection Bill, will reduce beef product quality is absurd. Competition has always been the driver of quality, innovation and progress. And, while it is true that some alternative marketing arrangements do pay premiums above the cash market based on quality, as the competitiveness of the cash market declines, so too does the price of higher-quality cattle sold under alternative marketing arrangements decline. In today's market marked by reduced competition in the negotiated cash market, the

recipients of premiums over the cash market are not actually receiving a premium, they're merely receiving a price closer to what a truly competitive market would provide them.

6. Opponent: Additionally, a 50% cash trade mandate for all regions would be counterproductive as research also indicates adequate price discovery can be achieved at different levels in different regions.

Proponent: Moving to a regionalized volume-setting approach that assumes southern regions need less price discovery than northern regions is simply an effort to lock-in the market power and advantage of those packers that have already shrunk the cash market below competitive levels, thus shutting off opportunities for small- to mid-sized feedlots to market their cattle in a competitive cash market. Locking in lower volumes in certain regions will ensure that new entrants cannot operate new feedlots in those regions unless they have the blessing of one or more packers. Also, regions where low cash volumes persist will have a chilling effect on any potential local and regional packer-startups as their opportunity to access supplies will remain severely limited. The lower the negotiated cash market volume, the greater the market access risk is to producers who desire to market their cattle in the cash market and the greater the barrier will be for new packer entrants.

7. Opponent: More negotiated trade would bolster price discovery. However, a minimum negotiated trade mandate means the federal government must monitor and maintain the minimum, inviting further government intrusion into the industry.

Proponent: The goal of the Cattle Market Protection Bill is to bolster price discovery by bolstering competition, and here the opponents admit the increased negotiated trade resulting from the 50/14 Bill will bolster price discovery. So, what they really oppose is government intervention to preserve and protect competition in their industry. The cattle industry has known for many years that the fast-shrinking cash market was a serious problem, and for all those years no one intervened to address the problem. Even economist Stephen Koontz, who opposes the government mandate, warned the cattle industry six years ago (in February 2015) that "Addressing the issue of thinning cash fed cattle markets require action by the industry. The problem – as in all public good problems – will not solve itself (emphasis added)." Obviously, the industry did not or could not heed this warning as the shrunken cash market persists. Importantly, neither individual cattle producers nor their associations have the means to force the oligopolistic packers to stop benefiting from the shrunken cash market. That is why the government must take steps to restore competition for the entire U.S. cattle industry.

8. Proponent Conclusion: Capitalism is "characterized by the freedom of capitalists to operate or manage their property for profit in competitive conditions." Competitive markets level the playing field between small and large competitors. Independent cattle producers don't need a head start, all they need is the opportunity to compete and a fair and motivated referee who isn't afraid to blow the whistle. The Cattle

Market Protection Bill does simply that, it does not pick winners and losers, it moves us closer to a purely competitive and transparent market.

Proponent's list of Studies:

- A more recent study by USDA found that in 2009 the cash market volume was at nearly 40% and at that level the packers' use of alternative marketing arrangements (AMAs) was associated with lower cattle prices, ranging from -\$3.11 per cwt in Kansas and -\$0.24 per cwt in Iowa. It also found that prices for AMA cattle are influenced by changes in price of negotiated fed cattle. It further found that 90% of the "efficiencies" created by AMAs were increases in revenue to the beef packers and beef marketing industry. Source: Investigation of Beef Packers' Use of Alternative Marketing Arrangements, <https://www.r-califusa.com/the-issues/competition-issues/>.
- An April 2018 report by the Government Accountability Office found that packers were likely to exercise "market power" in areas with less competition and it attributed the 2015 price collapse in part due to less competition among packers in some areas of the country that caused lower cattle prices. Source: <https://www.gao.gov/products/GAO-18-296>.
- A 2011 regime switching study by Xiaowei Cai, et al., University of Wisconsin, found that oligopolistic packers switch between cooperating and competing depending on whether short-term cattle supplies are tight (competition phase) or plentiful (cooperation phase): Source: <https://onlinelibrary.wiley.com/doi/10.1111/j.1574-0862.2010.00503>.
- Oklahoma State University Extension issued a paper stating, "Negotiated transactions and the price discovery they support benefit everyone in the market and sensible efforts to increase the volume of negotiated transactions in the fed cattle market are well-founded and worth supporting." Source: <http://pods.dasnr.okstate.edu/docushare/d-sweb/Get/Document-12077/E-1053%20Fed%20Cattle.pdf>
- The USDA's Livestock and Meat Marketing study found that when the cash market volume was at nearly 62% from 2002-2005, the packers were able to realize efficiencies during this period despite there being a far more robust negotiated cash market than exists today. Further, the study found that smaller producers, defined as all feedlots and all cow-calf operations not among the nation's 25 largest feedlots or 25 largest cow-calf operations, were substantively more dependent on the negotiated cash market than were the largest of feedlots and cow-calf operations (those among the largest 25, respectively), with an estimated 85% of smaller producers using only the negotiated cash market. Source: https://www.gipsa.usda.gov/psp/publication/livemarketstudy/LMMS_Vol_3.pdf.
- A 2011 study by Andrew Lee and Man-Keun Kim found that beginning with only about 20% of procurement outside the negotiated cash market (meaning when the negotiated cash market volume is as high as 80%), fed cattle prices are nevertheless shown to be negatively impacted. Source: <https://ideas.repec.org/a/ags/jordng/174502.html>.
- In 2009 Economist Stephen Koontz described a finding by economists Tian Xia and Richard Sexton indicating that if packers secure 50% or more of their needed cattle supplies through means other than the negotiated cash market, then the fed cattle market price can be depressed to the monopsony level and maximum market power exerted. Source: <https://www.justice.gov/sites/default/files/atr/legacy/2010/02/26/255234.pdf>.

United in the Cause

R-CALF USA's nationwide fundraiser for MCOOL and 50/14.

Why Host a Livestock Auction Fundraiser?

Livestock auction fundraisers are the perfect time for all cattle producers, main street businesses and individuals to unite to demonstrate their support for MCOOL and 50/14.

Help Fill the Boot:

- ★ Host an MCOOL & 50/14 fundraiser at your salebarn
- ★ Send a donation to "R-CALF's national fundraiser"
 - PO Box 30715
 - Billings, MT 59107
- ★ Visit www.r-calfusa.com for fundraisers near you or to donate online

Come together with your fellow ranchers!

Contact Karina Jones
(308) 760-3466 to host a fundraiser.



Resolution to Support the 50/14 (S.949)

Share with your state legislators and ask them to introduce in your 2022 state legislative session.

WHEREAS: The United States live cattle industry is the single largest segment of American agriculture, generating about \$67 billion in cash receipts annually; and

WHEREAS: The fed cattle spot market is the most important market for the entire U.S. live cattle industry as it is where a competitive price is established for all fed cattle; and

WHEREAS: The price discovered in the spot market for fed cattle translates into prices for nearly all cattle sold throughout the live cattle supply chain, regardless of age or weight; and

WHEREAS: The volume of fed cattle sold in the spot market has shrunk over the past several years, hitting an historical low of less than 22% of fed cattle slaughter in 2015, and it fell even further in the first quarter of 2021 – to only 20%.

WHEREAS: The U.S. cattle industry has long recognized that the shrinking spot market is reducing competition in the U.S. cattle industry, but no voluntary or other industry-led correction efforts have made any meaningful improvements.

NOW THEREFORE BE IT RESOLVED: The XXXXXXXXX supports Senate Bill 949 introduced by Senators Charles Grassley and Jon Tester that will restore the competitiveness of the fed cattle spot market by requiring beef packers to purchase at least 50% of their cattle needs in the competitive spot market and to slaughter those cattle within 14 days.

Cattle Prices Crash While Consumers Pay Record Beef Prices

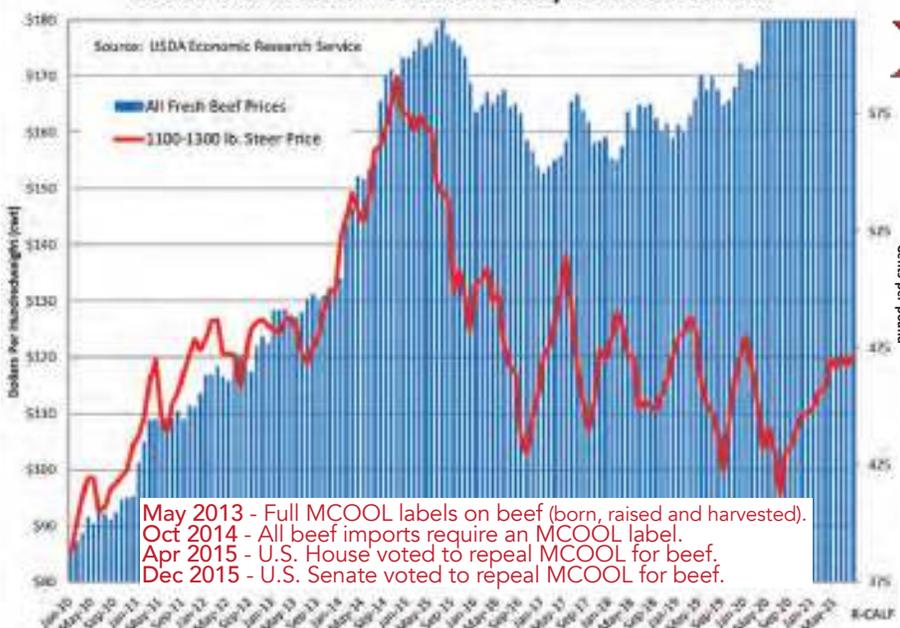


Chart shows cattle prices (red line) historically followed consumer beef prices (blue columns) up & down very closely. In 2015, a new trend developed, beef and cattle prices disconnected from each other and began moving in opposite directions, this means the beef supply chain is exploiting both consumers and cattle producers. Both MCOOL and 50/14 will help restore the relationship between retail beef prices and cattle prices.

Congress: Vote 'Yes' on S.3285, Protecting America's Meatpacking Workers Act

Summary: 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 (PAMWA) 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. (Full text of S.3285 is available at www.r-calfusa.com.)

R-CALF USA Calls New Cattle Market Reform Bill the Long Awaited “Silver Bullet”

Billings, Mont. – R-CALF USA announced its strong endorsement of the cattle market reforms contained in a new bill announced by Senator Cory Booker (D-N.J.) and Representative Ro Khanna (D-Calif.). The Protecting America’s Meatpacking Workers Act of 2021 (the new Act) would substantively reform the structure of the U.S. cattle market and was formally introduced in the Senate (S.3285) on Nov. 30, 2021, and in the House (H.R.6250) on Dec. 13, 2021.

The new Act prohibits today’s ubiquitous formula contract, which requires cattle sellers to commit cattle to a packer without knowing even the base price the packers would use for determining the value of their cattle. The Act accomplishes this by requiring any contract that requires delivery of cattle more than 7 days before slaughter to contain a base price that can be equated to a fixed dollar amount.

The new Act also:

- Bans the nation’s largest packers from owning and feeding cattle more than 7 days before slaughter.
- Requires each plant owned by the largest packers to purchase at least 50% of their cattle needs from the competitive cash market each day and to slaughter those cattle within 7 days.
- Prohibits any conduct by the packers that adversely affects competition regardless of any business justification claimed by the packers.
- Clarifies that a showing of harm to competition is not necessary for producers to protect themselves from anticompetitive conduct by the packers.
- Restores mandatory country of origin labeling

(MCOOL) for beef and pork and adds dairy products. -Empowers producers to defend the competitiveness of their industry by authorizing the recovery of attorney fees in successful cases filed under the Packers and Stockyards Act.

“This new Act is the ‘Silver Bullet’ we’ve been seeking to immediately fix the broken market and reverse the alarming contraction of the U.S. cattle industry,” said R-CALF USA CEO Bill Bullard.

The comprehensive new Act contains three titles: the first addresses reforms to protect meat and poultry processing workers; the second addresses the above stated cattle market reforms; and the third addresses reports required by the Government Accountability Office, including a report on the fragility of and national security concerns in meat and poultry food systems.

“This much needed, comprehensive overhaul of the systemically broken cattle market, along with its worker-related reforms, elevates the new Act to that of the 2021 version of the 100-year-old Packers and Stockyard’s Act, which is sorely needed by cattle producers, workers and consumers.

“We strongly encourage every cattle producer to carefully read the new Act and to support it as a preferred substitute for the recently compromised spot market protection bill, S.3229, which now fails completely to offer any meaningful market structure reforms,” concluded Bullard.



Comparison of Senate Bills as they Relate to the Ultra-Thin Cash Market

All Bills apply only to packers with multiple plants.

Spot Market Protection Bill (S.949)	Cattle Market Transparency Act (S.543)	Compromise Bill (S.3229)	Protecting America's Meatpacking Workers Act (S.3285)
Requires cattle slaughter within 14 days.	Requires cattle slaughter within 14 days.	Requires cattle slaughter within 14 days.	Requires cattle slaughter within 7 days.
Establishes a minimum percentage of negotiated cash purchases in federal law.	Delegates to USDA the authority to set minimum purchases through federal agency rulemaking.	Delegates to USDA the authority to set minimum purchases through federal agency rulemaking.	Establishes a minimum percentage of negotiated cash purchases in federal law and further bans unpriced formula contracts and bans packer ownership and feeding of livestock.
Sets minimum cash purchase requirement by each packing plant at 50%.	Delegates to USDA the authority to establish the level of minimum purchases but allows USDA to set those minimums as low as the average levels they had been during the past three years.	Delegates to USDA the authority to establish the level of minimum purchases but allows USDA to set those minimums as low as the average levels they had been during the past 18 months.	Sets minimum cash purchase requirement by each packing plant at 50%.
The minimum purchase requirement applies only to negotiated cash market sales, for which the price of the animal is known at the time of the sale.	The minimum purchase requirements USDA would establish apply to both negotiated cash market sales and negotiated grid market sales, even though the latter is different because it is typically based on a not-yet published reported cash price for the current week.	The minimum purchase requirements USDA would establish apply to both negotiated cash market sales and negotiated grid market sales, even though the latter is different because it is typically based on a not-yet published reported cash price for the current week.	The minimum purchase requirement applies only to negotiated cash market sales, for which the price of the animal is known at the time of the sale.
Requires each packing plant to achieve the 50% minimum on a weekly basis. Dairy and foreign-born cattle are not included.	Delegates to the USDA the authority to set regional minimums for each week but suggests USDA could use a longer period.	Delegates to the USDA the authority to set regional minimums for each week.	Requires each packing plant to achieve the 50% minimum on a daily basis. Includes all livestock i.e., cattle, hogs, and lambs.
The 50% minimum cash purchase level applies to each packing plant in the United States regardless of which cattle procurement region the packer purchases from.	Delegates to USDA the authority to establish different minimums in each region and directs USDA to consider the volume of pre-existing contractual arrangements in each region before determining minimum purchasing requirements.	Delegates to USDA the authority to establish different minimums only in regions in which the packing plant is located and directs USDA to consider the volume of pre-existing contractual arrangements in each region before determining minimum purchasing requirements. No minimum cash purchase level shall exceed three times the lowest regional mandatory minimum. Does not apply to plants outside the 5-Area procurement regions. Nine of the 24 plants owned by JBS, Tyson, Cargill, and National (Marfrig), the "Big 4," are outside the 5-Area procurement regions.	The 50% minimum cash purchase level applies to each packing plant in the United States regardless of which cattle procurement region the packer purchases from.

Comparison of Senate Bills as they Relate to the Ultra-Thin Cash Market continued...

Spot Market Protection Bill (S.949)	Cattle Market Transparency Act (S.543)	Compromise Bill (S.3229)	Protecting America's Meatpacking Workers Act (S.3285)
The minimum cash purchase requirement would take effect upon enactment of the bill.	Delegates to USDA the authority to establish the effective date of minimum purchase requirements but states it must be done within two years.	Delegates to USDA the authority to establish the effective date of minimum purchase requirements but states it must be done within two years.	The minimum cash purchase requirement would be phased in by 2024.
Prevents sales from producers who are affiliated with a packer subject to the bill from counting toward the minimum cash percentage.	The Bill is silent on this issue.	The Bill is silent on this issue.	Prevents sales from producers who are affiliated with a packer subject to the bill from counting toward the minimum cash percentage.
Grants to each State the authority to set minimum cash purchase requirements at a higher level than required by federal law.	The Bill is silent on this issue.	The Bill is silent on this issue.	Grants to each State the authority to set minimum cash purchase requirements at a higher level than required by federal law.

