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

IN THE SENATE OF THE UNITED STATES

November 30, 2021

Mr. Booker (for himself, Mrs. Gillibrand, Mr. Blumenthal, Mr. Sanders, and Ms. Warren) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

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

(a) Short Title.—This Act may be cited as the “Protecting America’s Meatpacking Workers Act of 2021”.

(b) Table of Contents.—The table of contents for 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

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. Enforcement authority.
Sec. 114. Regulations.
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.

SEC. 2. FINDINGS.

Congress finds that—

(1) meat and poultry slaughter and processing is a particularly dangerous occupation, with meat and poultry processing workers suffering injuries at measurably higher rates than workers in other private sector industries;

(2) meat and poultry processing workers face double the rate of amputations as the average worker in private industry, and injuries such as sprains, lacerations, and contusions are common among poultry workers;

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

(4) higher line speeds in meat and poultry processing facilities is a recognized risk factor that leads to increased risk of both laceration and musculoskeletal injuries;

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

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

(B) the close proximity of meat processing workers;

(C) cold conditions inside meat processing facilities; and

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

(6) during the COVID–19 pandemic, covered establishments have implemented policies and procedures that have—

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

(B) prioritized processing rates over worker health and welfare; and

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

(7) enforcement of requirements of the Occupational Safety and Health Administration in the meat and poultry processing industry has been fundamentally inadequate, especially during the COVID–19 pandemic; and
meat and poultry processing workers are subjected to exploitative conditions and abusive behavior by employers—

(A) including—

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

(ii) use of sexualized language to harass women workers to work “harder” and “faster”;

(iii) patterns of direct sexual harassment and incidents of sexual assault; and

(iv) little or no accountability or redress for emotional, sexualized, or psychological abuse due to—

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

(II) meat and poultry processing workers not reporting the abuse due to fear of receiving more abuse, having their employment terminated, or being reported to immigration enforcement; and
(B) that lead to long-term psychological impacts, including—

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

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

SEC. 3. DEFINITIONS.

In this Act:

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

(A) an official establishment (as defined in section 301.2 of title 9, Code of Federal Regulations (or successor regulations)) that is subject to inspection under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.); and

(B) an official establishment (as defined in section 381.1 of title 9, Code of Federal Regulations (or successor regulations)) that is subject to inspection under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

(2) COVERED PERIOD.—The term “covered period” means the period beginning on the date of en-
ment of this Act and ending on the date that is
90 days after the date on which the COVID–19
emergency is lifted.

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

(4) EMPLOYEE; EMPLOYER.—Unless otherwise
specified, the terms “employee” and “employer”
have the meanings given those terms in section 3 of
the Occupational Safety and Health Act of 1970 (29

TITLE I—REFORMS TO PROTECT
MEAT AND POULTRY PROCESSING WORKERS
Subtitle A—Department of
Agriculture

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

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Adminis-
trator” means the Administrator of the Service.
(2) ASSISTANT SECRETARY.—The term “Assistant Secretary” means the Assistant Secretary of Labor for Occupational Safety and Health.

(3) DIRECTOR.—The term “Director” means the Director of the National Institute for Occupational Safety and Health.

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

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

(b) RULE ON WAIVERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including regulations, including sections 303.1(h) and 381.3(b) of title 9, Code of Federal Regulations (or successor regulations)), the Secretary, acting through the Administrator, shall not issue a waiver relating to line speeds at a covered establishment or inspection staffing requirements for a covered establishment unless the covered establishment—

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

(B) the Assistant Secretary or the Director certifies to the Secretary that any increases in
line speed at the covered establishment would not have an adverse impact on worker safety.

(2) INSPECTIONS.—An inspection conducted by the Assistant Secretary or the Director under paragraph (1)(A) shall include—

(A) an ergonomic analysis of all jobs in the applicable covered establishment that may experience an increased work pace due to increasing the number of animals being slaughtered—

(i) per minute; and

(ii) per hour;

(B) an assessment of the current rates of musculoskeletal disorders in the covered establishment;

(C) a review of current efforts at the covered establishment to mitigate those disorders, including a review of how medical personnel at the covered establishment manage those disorders; and

(D) a review of the impact of any proposed line speed increases on the pace of work for workers on the slaughter and production lines of the covered establishment (including the workers that package the meat).
(3) LIMITATION ON AUTHORITY OVER LINE SPEEDS.—None of the funds made available to the Secretary during the covered period may be used to develop, propose, finalize, issue, amend, or implement any policy, regulation, directive, constituent update, or any other agency program that would increase line speeds at covered establishments.

(4) EFFECT ON STATE LAW.—

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

(i) imposes requirements that are more protective of worker safety or animal welfare than the requirements of this subsection; or

(ii) creates penalties for conduct regulated by this subsection.

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

(c) TRANSPARENCY IN RULEMAKING.—With respect to each rulemaking proceeding initiated by the Administrator on or after the date of enactment of this Act, the Administrator shall comply with—
(1) the data quality guidelines of the Service, which state that the Service and the offices of the Service are held to a standard of transparency to ensure that the information shared by the Service is presented in an accurate, reliable, and unbiased manner; and

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

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

(1) current safety conditions and injuries and illnesses at the applicable covered establishments, including medical exams and medical histories;

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

(3) whether, and the extent to which, the policy proposals will impact worker safety.
(c) Reports.—

(1) Report to Congress.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services shall each submit to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Agriculture and the Committee on Education and Labor of the House of Representatives, a report that—

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

(B) includes an analysis of the issues described in paragraphs (1) through (12) of section 303(b).

(2) Reports on implementation of rules.—

(A) In general.—Not later than 1 year after the implementation of any rule relating to line speeds at covered establishments, the Secretary shall submit to Congress a report on the impact of the rule on—
(i) line speeds at covered establishments;

(ii) worker safety and health at covered establishments;

(iii) ergonomic aspects of jobs at covered establishments; and

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

(B) REQUIREMENT.—A report under subparagraph (A) shall include—

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

(ii) a determination of the industrial engineer of the number of workers needed—

(I) to do each job safely; and

(II) to operate the covered establishment at different line speeds; and

(iii) a job crewing report prepared by the industrial engineer.
Subtitle B—Fair Attendance
Policies

Sec. 111. Definitions.
In this subtitle:

(1) Employee.—The term “employee” means an individual who is—

(A)(i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (2)(A); or

(ii) an employee of the Government Accountability Office;

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(D) a covered employee, as defined in section 411(c) of title 3, United States Code; or
(E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code.

(2) EMPLOYER.—

(A) IN GENERAL.—The term “employer” means a person who is—

(i)(I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);

(II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(IV) an employing office, as defined in section 411(c) of title 3, United States Code; or

(V) an employing agency covered under subchapter V of chapter 63 of title 5, United States Code; and

(ii) engaged in commerce (including government), or an industry or activity affecting commerce (including government), as defined in subparagraph (B)(iii).
(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term “covered employer”—

(I) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding year;

(II) includes—

(aa) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(bb) any successor in interest of an employer;

(III) includes any public agency, as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(IV) includes the Government Accountability Office and the Library of Congress.
(ii) PUBLIC AGENCY.—For purposes of clause (i)(III), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(iii) DEFINITIONS.—For purposes of this subparagraph:

(I) COMMERCE.—The terms “commerce” and “industry or activity affecting commerce” mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include commerce and any industry affecting commerce, as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142).

(II) EMPLOYEE.—The term “employee” has the meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).
(C) **Predecessors.**—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

(3) **Legally Protected Leave.**—The term "legally protected leave", when used with respect to an employee, means leave that is protected under a Federal, State, or local law applicable to the employee.

(4) **No Fault Attendance Policy.**—The term "no fault attendance policy" means a policy or pattern and practice maintained by an employer under which employees face consequences for any absence, tardy, or early departure through the assessment of points (also referred to as "demerits" or "occurrences") or deductions from an allotted bank of time, and those points or deductions subject the employee to progressive disciplinary action, which may include failure to receive a promotion, loss of pay, or termination.

(5) **Person.**—The term "person" has the meaning given such term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(6) **Secretary.**—The term "Secretary" means the Secretary of Labor, acting through the Administrator of the Wage and Hour Division.
SEC. 112. REQUIREMENTS FOR EMPLOYERS RELATING TO
NO FAULT ATTENDANCE POLICIES OR AT-
TENDANCE SYSTEMS.

(a) REQUIREMENTS FOR NO FAULT ATTENDANCE
POLICY.—It shall be considered an unlawful employment
practice for an employer to maintain a no fault attendance
policy, unless the employer complies with the following:

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

(A) not later than 90 days after the date
of enactment of this Act, to all employees em-
ployed by the employer as of that date of dis-
tribution; and

(B) with respect to each employee hired by
the employer after such date of enactment,
upon the commencement of the employee’s em-
ployment.

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

(3) The employer shall provide employees with
a means of accessing the no fault attendance policy
at any physical workplace and outside of a physical
workplace.
(4) The no fault attendance policy shall explicitly state that employees will not face disciplinary action or other adverse consequences, which may include the assessment of points or a deduction from an allotted bank of time, for legally protected leave.

(5) The no fault attendance policy shall specifically reference and provide a reasonable amount of detail about all Federal, State, and local laws applicable to the employees that provide legally protected leave, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), and chapter 43 of title 38, United States Code.

(6) The no fault attendance policy shall identify a process for employees to complete each of the following:

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

   (B) Provide medical documentation, if it is required under the no fault attendance policy in order to avoid disciplinary action or other adverse consequences for legally protected leave.

   (C) Seek removal of points that an employee believes were wrongly assessed, or the restoration of time that an employee believes
was wrongly deducted for legally protected leave.

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

(b) REQUIREMENTS FOR ATTENDANCE SYSTEMS.—

It shall be an unlawful employment practice for an employer to maintain any attendance system policy, or pattern and practice, that discourages employees from exercising, or attempting to exercise, any right to legally protected leave.

(c) ADDITIONAL PROHIBITIONS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be an unlawful employment practice for any employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this subtitle, including—

(i) discharging or discriminating against (including retaliating against) any individual for exercising, or attempting to exercise, any right provided under this subtitle; or

(ii) using the taking of legally protected leave as a negative factor in an em-
ployment action, such as hiring, promotion, reducing hours or number of shifts, or a disciplinary action.

(B) DISCRIMINATION.—It shall be an unlawful employment practice for any employer to discharge or in any other manner discriminate against (including retaliating against) any individual for opposing any practice made unlawful by this subtitle.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful employment practice for any person to discharge or in any other manner discriminate against (including retaliating against) any individual because such individual—

(A) has filed an action, or has instituted or caused to be instituted any proceeding, under or related to this subtitle;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this subtitle; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this subtitle.
SEC. 113. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection—

(A) the term “employee” means an employee described in subparagraph (A) or (B) of section 111(1); and

(B) the term “employer” means an employer described in subclause (I) or (II) of section 111(2)(A)(i).

(2) INVESTIGATIVE AUTHORITY.—

(A) IN GENERAL.—To ensure compliance with the provisions of this subtitle, or any regulation or order issued under this subtitle, the Secretary shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)), with respect to employers, employees, and other individuals affected.

(B) SUBPOENA AUTHORITY.—For the purposes of any investigation provided for in this paragraph, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(3) CIVIL ACTION BY EMPLOYEES OR INDIVIDUALS.—
(A) **RIGHT OF ACTION.**—An action to recover the damages or equitable relief prescribed in subparagraph (B) may be maintained against any employer in any Federal or State court of competent jurisdiction by one or more employees or individuals or their representative for and on behalf of—

(i) the employees or individuals; or

(ii) the employees or individuals and others similarly situated.

(B) **LIABILITY.**—Any employer who violates section 112 shall be liable to any employee or individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost, any actual monetary losses sustained as a direct result of the violation up
to a sum equal to 56 hours of
wages or salary for the employee
or individual;

(II) the interest on the amount
described in subclause (I) calculated
at the prevailing rate; and

(III) an additional amount as liq-
uidated damages; and

(ii) for such equitable relief as may be
appropriate, including employment, rein-
statement, and promotion.

(C) FEES AND COSTS.—The court in an
action under this paragraph shall, in addition to
any judgment awarded to the plaintiff, allow a
reasonable attorney’s fee, reasonable expert wit-
ness fees, and other costs of the action to be
paid by the defendant.

(4) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Sec-
retary shall receive, investigate, and attempt to
resolve complaints of violations of section 112
in the same manner that the Secretary receives,
investigates, and attempts to resolve complaints
of violations of sections 6 and 7 of the Fair

(B) Civil Action.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (3)(B)(i).

(C) Sums Recovered.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee or individual affected. Any such sums not paid to an employee or individual affected because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(5) Limitation.—

(A) In General.—Except as provided in subparagraph (B), an action may be brought under paragraph (3), (4), or (6) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) Willful Violation.—In the case of an action brought for a willful violation of sec-
tion 112, such action may be brought not later than 3 years after of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced under paragraph (3), (4), or (6) for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(6) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of section 112, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to employees or individuals eligible under this subtitle; or

(B) to award such other equitable relief as may be appropriate, including employment, re-instatement, and promotion.

(7) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary
on any litigation brought under paragraph (4) or (6).

(8) **Government Accountability Office and Library of Congress.**—Notwithstanding any other provision of this subsection, in the case of the Government Accountability Office and the Library of Congress, the authority of the Secretary of Labor under this subsection shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.

(b) **Employees Covered by Congressional Accountability Act of 1995.**—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 202(a)(1) of that Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies, and procedures this subtitle provides to that Board, or any person, alleging an unlawful employment practice in violation of this subtitle against an employee described in section 111(1)(C).

(c) **Employees Covered by Chapter 5 of Title 3, United States Code.**—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Merit Systems Protection
Board, or any person, alleging a violation of section 412(a)(1) of that title, shall be the powers, remedies, and procedures this subtitle provides to the President, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this subtitle against an employee described in section 111(1)(D).

(d) Employees Covered by Chapter 63 of Title 5, United States Code.—The powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this subtitle provides to that agency, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this subtitle against an employee described in section 111(1)(E).

SEC. 114. Regulations.

(a) In General.—

(1) Authority.—Except as provided in paragraph (2), not later than 180 days after the date of enactment of this Act, the Secretary, in coordination with the Equal Employment Opportunity Commission and the heads of other relevant Federal agencies, shall prescribe such regulations as are nec-
necessary to carry out this subtitle with respect to em-
ployees described in subparagraph (A) or (B) of sec-
tion 111(1) and other individuals affected by em-
ployers described in subclause (I) or (II) of section
111(2)(A)(i).

(2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
BRARY OF CONGRESS.—The Comptroller General of
the United States and the Librarian of Congress
shall prescribe the regulations with respect to em-
ployees of the Government Accountability Office and
the Library of Congress, respectively, and other indi-
viduals affected by the Comptroller General of the
United States and the Librarian of Congress, re-
spectively.

(b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
COUNTABILITY ACT OF 1995.—

(1) AUTHORITY.—Not later than 90 days after
the Secretary prescribes regulations under sub-
section (a), the Board of Directors of the Office of
Compliance shall prescribe (in accordance with sec-
tion 304 of the Congressional Accountability Act of
1995 (2 U.S.C. 1384)) such regulations as are nec-
essary to carry out this subtitle with respect to em-
ployees described in section 111(1)(C) and other in-
individuals affected by employers described in section 111(2)(A)(i)(III).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this subtitle except insofar as the Board may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) AUTHORITY.—Not later than 90 days after the Secretary prescribes regulations under subsection (a), the President (or the designee of the President) shall prescribe such regulations as are necessary to carry out this subtitle with respect to employees described in section 111(1)(D) and other individuals affected by employers described in section 111(2)(A)(i)(IV).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Sec-
retary to carry out this subtitle except insofar as the
President (or designee) may determine, for good
cause shown and stated together with the regula-
tions prescribed under paragraph (1), that a modi-
fication of such regulations would be more effective
for the implementation of the rights and protections
involved under this section.

(d) Employees Covered by Chapter 63 of Title
5, United States Code.—

(1) Authority.—Not later than 90 days after
the Secretary prescribes regulations under sub-
section (a), the Director of the Office of Personnel
Management shall prescribe such regulations as are
necessary to carry out this subtitle with respect to
employees described in section 111(1)(E) and other
individuals affected by employers described in sec-

(2) Agency regulations.—The regulations
prescribed under paragraph (1) shall be the same as
substantive regulations promulgated by the Sec-
retary to carry out this subtitle except insofar as the
Director may determine, for good cause shown and
stated together with the regulations prescribed
under paragraph (1), that a modification of such
regulations would be more effective for the imple-
mentation of the rights and protections involved under this section.

(c) Requirements for All Regulations.—All regulations prescribed under this section shall—

(1) be issued in an accessible format in accordance with subchapter II of chapter 5 of title 5, United States Code; and

(2) provide an example of a model no fault attendance policy that conforms to the requirements of this subtitle.

SEC. 115. RELATIONSHIP TO OTHER LAWS.

Nothing in this subtitle shall be construed to invalidate or limit the powers, remedies, and procedures under any Federal law or law of any State or political subdivision of any State or jurisdiction that provide leave rights, whether paid or unpaid (such as sick time, family or medical leave, and time off as an accommodation).

SEC. 116. WAIVER OF STATE IMMUNITY.

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

SEC. 117. SEVERABILITY.

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

Subtitle C—Occupational Safety
and Health Administration Re-
forms

SEC. 121. DEFINITIONS.

In this title, the terms “Secretary” and “State” have
the meanings given such terms in section 3 of the Occupa-

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

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

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

(1) allows employees to leave their work locations to use a toilet facility when needed and without punishment;

(2) provides an adequate number of toilet facilities for the size of the workforce to prevent long lines;

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

(4) ensures that restrictions, such as locking doors or requiring employees to sign out a key, do not cause extended delays in access to toilet facilities; and

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

SEC. 123. OCCUPATIONAL SAFETY AND HEALTH STANDARDS TO PROTECT EMPLOYEES IN COVERED ESTABLISHMENTS.

(a) STANDARD FOR PROTECTING EMPLOYEES FROM OCCUPATIONAL RISK FACTORS CAUSING MUSCULOSKELETAL DISORDERS.—

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

(A) hazard identification and ergonomic job evaluations, including requirements for employee and authorized employee representative participation in such identification;

(B) hazard control, which such requirements rely on the principles of the hierarchy of controls and which may include measures such
as rest breaks, equipment and workstation redesign, work pace reductions, or job rotation to less forceful or repetitive jobs;

(C) training for employees regarding employer activities, occupational risk factors, and training on controls and recognition of symptoms of musculoskeletal disorders; and

(D) medical management that includes—

(i) encouraging early reporting of musculoskeletal disorder symptoms;

(ii) first aid delivered by those operating under State licensing requirements; and

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

(2) Final standard.—Not later than 30 months after the date of enactment this Act, the Secretary shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), publish in the Federal Register a final standard based on the proposed standard under paragraph (1).

(b) Standard for Protecting Employees From Delays in Medical Treatment Referrals Following Injuries or Illnesses.—
(1) PROPOSED STANDARD.—Not later than 3 months after the date of enactment of this Act, the Secretary shall, pursuant to section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), publish in the Federal Register a proposed standard requiring that all employers with employees working at a covered establishment who, in accordance with the standard promulgated under section 1910.151 of title 29, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act, are required to have a person readily available at the establishment who is adequately trained to render first aid, shall ensure that such person—

(A) without delay, refers any such employee who reports an injury or illness that requires further medical treatment to an appropriate medical professional of the employee’s choice for such treatment;

(B) provides for occupational medicine consultation services through a physician who is board certified in occupational medicine, which services shall include—

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

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

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

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

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

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

(e) Standard for Protecting Employees From
Airborne Contagions.—

(1) Emergency temporary standard for
Covid–19.—In consideration of the grave danger
presented by COVID–19 and the need to strengthen
protections for workers at covered establishments, notwithstanding the provisions of law and the Executive orders listed in paragraph (4), not later than 7 days after the date of enactment of this Act, the Secretary of Labor shall promulgate an emergency temporary standard to protect all employees, contractors, and temporary workers at covered establishments from occupational exposure to SARS-CoV–2.

(2) Extension of standard.—Notwithstanding paragraphs (2) and (3) of section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(c)), the emergency temporary standard promulgated under this subsection shall be in effect until the date on which the final standard promulgated under paragraph (5) is in effect.

(3) State plan adoption.—With respect to a State with a State plan that has been approved by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), not later than 14 days after the date of enactment of this Act, such State shall promulgate an emergency temporary standard that is at least as effective in protecting employees, contractors, and temporary workers at covered establish-
ments from occupational exposure to SARS–CoV–2 as the emergency temporary standard promulgated under this subsection.

(4) Inapplicable provisions of law and executive order.—The provisions of law and the Executive orders listed in this paragraph are as follows:

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

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

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

(D) Executive Order 12866 (58 Fed. Reg. 190; relating to regulatory planning and review), as amended.

(E) Executive Order 13771 (82 Fed. Reg. 9339, relating to reducing regulation and controlling regulatory costs).

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

(A) to protect employees, contractors, and temporary workers at covered establishments from occupational exposure to infectious pathogens, including airborne and novel pathogens; and

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

(6) CONSULTATION.—In developing the standards under this subsection, the Secretary shall consult with—

(A) the Director of the Centers for Disease Control and Prevention;

(B) the Director of the National Institute for Occupational Safety and Health; and

(C) the professional associations and representatives of the employees, contractors, and temporary workers at covered establishments.

(7) REQUIREMENTS.—Each standard promulgated under this subsection shall include—
(A) a requirement that the covered establishments—

(i) develop and implement a comprehensive infectious disease exposure control plan, with the input and involvement of employees or, where applicable, the representatives of employees, as appropriate, to address the risk of occupational exposure;

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

(iii) reduce meat and poultry processing rates to achieve social distancing and implement applicable requirements sufficient to protect worker health with an adequate margin of safety;

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

(C) the incorporation, as appropriate, of—

(i) guidelines issued by the Centers
for Disease Control and Prevention, the
National Institute for Occupational Safety
and Health, and the Occupational Safety
and Health Administration, which are de-
dsigned to prevent the transmission of infec-
tious agents in health care or other occup-
pational settings; and

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

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

SEC. 124. PERMANENT REGIONAL EMPHASIS INSPECTION
PROGRAM; EXPANDING INSPECTIONS.

(a) REGIONAL EMPHASIS INSPECTION PROGRAM.—

(1) IN GENERAL.—Not later than 30 days after
the date of enactment of this Act, the Secretary
shall, pursuant to section 8 of the Occupational
Safety and Health Act of 1970 (29 U.S.C. 657), im-
implement a regional emphasis inspection program for covered establishments in every State of the United States in which a covered establishment is located. Such program shall cover—

(A) amputation hazards;

(B) ergonomics;

(C) hazards related to line speeds;

(D) bathroom breaks;

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

(F) working conditions in high and low temperatures.

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

(b) Expanding Inspections When Information Presents Possible Additional Dangers.—

(1) In General.—In the case the Secretary conducts a physical inspection of a covered establishment pursuant to section 8 of such Act in response
to a referral, complaint, or fatality, and the Secretary, during such inspection makes a determination under paragraph (2), the Secretary shall expand such inspection to all areas of the establishment.

(2) Determination.—A determination described in this paragraph is either of the following:

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

(B) A determination, upon interviews with employees, that a workplace danger may threaten physical harm.

SEC. 125. REPRESENTATIVES DURING PHYSICAL INSPECTIONS.

(a) Proposed Rule.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, under section 8(e) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(e)), publish in the Federal Register a regulation providing that during a physical inspection of a covered establishment under such section—

(1) the representative authorized by employees to be given the opportunity to accompany the Sec-
retary during the inspection as described in such
section shall not be required to be an employee of
the employer;

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

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

(b) Final Rule.—Not later than 2 years after the
date of enactment of this Act, the Secretary shall publish
in the Federal Register a final rule for the proposed rule
under subsection (a).

SEC. 126. ENHANCED PROTECTIONS FROM RETALIATION.

(a) Employee Actions.—Section 11(c)(1) of the
Occupational Safety and Health Act of 1970 (29 U.S.C.
660(c)(1)) is amended—

(1) by striking “discharge” and all that follows
through “because such” and inserting the following:
“discharge or cause to be discharged, or in any
other manner retaliate or discriminate against or
cause to be retaliated or discriminated against, any
employee because—
“(A) such”;
(2) by striking “this Act or has” and inserting the following: “this Act;
“(B) such employee has”;
(3) by striking “in any such proceeding or because of the exercise” and inserting the following: “before Congress or in any Federal or State proceeding related to safety or health;
“(C) such employee has refused to violate any provision of this Act; or
“(D) of the exercise”; and
(4) by inserting before the period at the end the following: “, including the reporting of any injury, illness, or unsafe condition to the employer, agent of the employer, safety and health committee involved, or employee safety and health representative involved”.

(b) Prohibition of Retaliation; Procedure.—Section 11 of such Act (29 U.S.C. 660) is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) by striking “discharged or otherwise discriminated against by any person in violation of this subsection” and insert-
ing “aggrieved by a violation of this subsection”; and

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

(B) by adding at the end the following:

“(4) EXCEPTION FOR MEAT AND POULTRY ESTABLISHMENTS.—Paragraphs (2) and (3) shall not apply with respect to a complaint filed by an employee of an employer that is a covered establishment, as defined in section 3 of the Protecting America’s Meatpacking Workers Act.”; and

(2) by adding at the end the following:

“(d) MEAT AND POULTRY ESTABLISHMENTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) COMPLAINANT.—The term ‘complainant’ means a complainant who is a covered employee.

“(B) COVERED EMPLOYEE.—The term ‘covered employee’ means an employee of a covered employer.

“(C) COVERED EMPLOYER.—The term ‘covered employer’ means an employer that is a covered establishment, as defined in section 3 of the Protecting America’s Meatpacking Workers Act.
“(D) RESPONDENT.—The term ‘respondent’ means a respondent who is a covered employer.

“(2) REASONABLE APPREHENSION.—

“(A) IN GENERAL.—No person shall discharge, or cause to be discharged, or in any other manner retaliate or discriminate against, or cause to be retaliated or discriminated against, a covered employee for refusing to perform the covered employee’s duties if the covered employee has a reasonable apprehension that performing such duties would result in serious injury to, or serious impairment of the health of, the covered employee or other covered employees.

“(B) CIRCUMSTANCES.—For purposes of subparagraph (A), the circumstances causing the covered employee’s reasonable apprehension described in such subparagraph shall be of such a nature that a reasonable person, under the circumstances confronting the covered employee, would conclude that performing the duties described in such subparagraph would have the result described in such subparagraph.
“(C) COMMUNICATION.—In order to qualify for protection under this paragraph, the covered employee, when practicable, shall have communicated or attempted to communicate the safety or health concern to the covered employer and have not received from the covered employer a response reasonably calculated to allay such concern.

“(3) COMPLAINT.—Any covered employee who believes that the covered employee has been discharged, disciplined, or otherwise retaliated or discriminated against by any person in violation of subsection (c)(1) or paragraph (2) of this subsection may seek relief for such violation by filing a complaint with the Secretary under paragraph (5).

“(4) STATUTE OF LIMITATIONS.—

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

“(i) the date on which an alleged violation of subsection (c)(1) or paragraph (2) of this subsection occurs; or

“(ii) the date on which the covered employee knows or should reasonably have known that such alleged violation occurred.
“(B) Repeat violation.—Except in cases when the covered employee has been discharged, a violation of subsection (c)(1) or paragraph (2) of this subsection shall be considered to have occurred on the last date an alleged repeat violation occurred.

“(5) Investigation.—

“(A) In general.—A covered employee may, within the time period required under paragraph (4)(A), file a complaint with the Secretary alleging a violation of subsection (c)(1) or paragraph (2) of this subsection. If the complaint alleges a prima facie case, the Secretary shall conduct an investigation of the allegations in the complaint, which—

“(i) shall include—

“(I) interviewing the complainant;

“(II) providing the respondent an opportunity to—

“(aa) submit to the Secretary a written response to the complaint; and

“(bb) meet with the Secretary to present statements from
witnesses or provide evidence; and

“(III) providing the complainant an opportunity to—

“(aa) receive any statements or evidence provided to the Secretary;

“(bb) meet with the Secretary; and

“(cc) rebut any statements or evidence; and

“(ii) may include issuing subpoenas for the purposes of such investigation.

“(B) DECISION.—Not later than 90 days after the filing of the complaint under this paragraph, the Secretary shall—

“(i) determine whether reasonable cause exists to believe that a violation of subsection (c)(1) or paragraph (2) of this subsection has occurred; and

“(ii) issue a decision granting or denying relief.

“(6) PRELIMINARY ORDER FOLLOWING INVESTIGATION.—If, after completion of an investigation under paragraph (5)(A), the Secretary finds reason-
able cause to believe that a violation of subsection (e)(1) or paragraph (2) of this subsection has occurred, the Secretary shall issue a preliminary order providing relief authorized under paragraph (14) at the same time the Secretary issues a decision under paragraph (5)(B). If a de novo hearing is not requested within the time period required under paragraph (7)(A)(i), such preliminary order shall be deemed a final order of the Secretary and is not subject to judicial review.

“(7) Hearing.—

“(A) Request for hearing.—

“(i) In general.—A de novo hearing on the record before an administrative law judge may be requested—

“(I) by the complainant or respondent within 30 days after receiving notification of a decision granting or denying relief issued under paragraph (5)(B) or a preliminary order under paragraph (6), respectively;

“(II) by the complainant within 30 days after the date the complaint is dismissed without investigation by
the Secretary under paragraph (5)(A);
or
“(III) by the complainant within
120 days after the date of filing the
complaint under paragraph (5), if the
Secretary has not issued a decision
under paragraph (5)(B).
“(ii) Reinstatement Order.—The
request for a hearing shall not operate to
stay any preliminary reinstatement order
issued under paragraph (6).
“(B) Procedures.—
“(i) In General.—A hearing re-
quested under this paragraph shall be con-
ducted expeditiously and in accordance
with rules established by the Secretary for
hearings conducted by administrative law
judges.
“(ii) Subpoenas; Production of
evidence.—In conducting any such hear-
ing, the administrative law judge may issue
subpoenas. The respondent or complainant
may request the issuance of subpoenas
that require the deposition of, or the at-
tendance and testimony of, witnesses and
the production of any evidence (including any books, papers, documents, or recordings) relating to the matter under consideration.

“(iii) DECISION.—The administrative law judge shall issue a decision not later than 90 days after the date on which a hearing was requested under this paragraph and promptly notify, in writing, the parties and the Secretary of such decision, including the findings of fact and conclusions of law. If the administrative law judge finds that a violation of subsection (c)(1) or paragraph (2) of this subsection has occurred, the judge shall issue an order for relief under paragraph (14). If review under paragraph (8) is not timely requested, such order shall be deemed a final order of the Secretary that is not subject to judicial review.

“(8) ADMINISTRATIVE APPEAL.—

“(A) IN GENERAL.—Not later than 30 days after the date of notification of a decision and order issued by an administrative law judge under paragraph (7), the complainant or re-
spondent may file, with objections, an administrative appeal with an administrative review body designated by the Secretary (referred to in this paragraph as the ‘review board’).

“(B) STANDARD OF REVIEW.—In reviewing the decision and order of the administrative law judge, the review board shall affirm the decision and order if it is determined that the factual findings set forth therein are supported by substantial evidence and the decision and order are made in accordance with applicable law.

“(C) DECISIONS.—If the review board grants an administrative appeal, the review board shall issue a final decision and order affirming or reversing, in whole or in part, the decision under review by not later than 90 days after receipt of the administrative appeal. If it is determined that a violation of subsection (c)(1) or paragraph (2) of this subsection has occurred, the review board shall issue a final decision and order providing relief authorized under paragraph (14). Such decision and order shall constitute final agency action with respect to the matter appealed.
“(9) SETTLEMENT IN THE ADMINISTRATIVE PROCESS.—

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

“(B) PUBLIC POLICY CONSIDERATIONS.—Neither the Secretary, an administrative law judge, nor the review board conducting a hearing under this subsection shall accept a settlement that contains conditions conflicting with the rights protected under this Act or that are contrary to public policy, including a restriction on a complainant’s right to future employment with employers other than the specific covered employers named in a complaint.

“(10) INACTION BY THE REVIEW BOARD OR ADMINISTRATIVE LAW JUDGE.—

“(A) IN GENERAL.—The complainant may bring a de novo action described in subparagraph (B) if—

“(i) an administrative law judge has not issued a decision and order within the
90-day time period required under paragraph (7)(B)(iii); or

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

“(B) DE NOVO ACTION.—Such de novo action may be brought at law or equity in the United States district court for the district where a violation of subsection (c)(1) or paragraph (2) of this subsection allegedly occurred or where the complainant resided on the date of such alleged violation. The court shall have jurisdiction over such action without regard to the amount in controversy and to order appropriate relief under paragraph (14). Such action shall, at the request of either party to such action, be tried by the court with a jury.

“(11) JUDICIAL REVIEW.—

“(A) TIMELY APPEAL TO THE COURT OF APPEALS.—Any party adversely affected or aggrieved by a final decision and order issued under this subsection may obtain review of such decision and order in the United States Court of Appeals for the circuit where the violation,
with respect to which such final decision and order was issued, allegedly occurred or where the complainant resided on the date of such alleged violation. To obtain such review, a party shall file a petition for review not later than 60 days after the final decision and order was issued. Such review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the final decision and order.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order and decision with respect to which review may be obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(12) ENFORCEMENT OF ORDER.—If a respondent fails to comply with an order issued under this subsection, the Secretary or the complainant on whose behalf the order was issued may file a civil action for enforcement in the United States district court for the district in which the violation was found to occur to enforce such order. If both the Secretary and the complainant file such action, the action of the Secretary shall take precedence. The
district court shall have jurisdiction to grant all appropriate relief described in paragraph (14).

“(13) Burdens of proof.—

“(A) Criteria for determination.—In making a determination or adjudicating a complaint pursuant to this subsection, the Secretary, administrative law judge, review board, or a court may determine that a violation of subsection (c)(1) or paragraph (2) of this subsection has occurred only if the complainant demonstrates that any conduct described in subsection (c)(1) or paragraph (2) of this subsection with respect to the complainant was a contributing factor in the adverse action alleged in the complaint.

“(B) Prohibition.—Notwithstanding subparagraph (A), a decision or order that is favorable to the complainant shall not be issued in any administrative or judicial action pursuant to this subsection if the respondent demonstrates by clear and convincing evidence that the respondent would have taken the same adverse action in the absence of such conduct.

“(14) Relief.—
“(A) ORDER FOR RELIEF.—If the Secretary, administrative law judge, review board, or a court determines that a covered employer has violated subsection (c)(1) or paragraph (2) of this subsection, the Secretary, administrative law judge, review board, or court, respectively, shall have jurisdiction to order all appropriate relief, including injunctive relief, and compensatory and exemplary damages, including—

“(i) affirmative action to abate the violation;

“(ii) reinstatement without loss of position or seniority, and restoration of the terms, rights, conditions, and privileges associated with the complainant’s employment, including opportunities for promotions to positions with equivalent or better compensation for which the complainant is qualified;

“(iii) compensatory and consequential damages sufficient to make the complainant whole (including back pay, prejudgment interest, and other damages); and

“(iv) expungement of all warnings, reprimands, or derogatory references that
have been placed in paper or electronic
records or databases of any type relating
to the actions by the complainant that
gave rise to the unfavorable personnel ac-
tion, and, at the complainant’s direction,
transmission of a copy of the decision on
the complaint to any person whom the
complainant reasonably believes may have
received such unfavorable information.

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

“(i) reasonable attorneys’ fees; and

“(ii) costs (including expert witness
fees) reasonably incurred, as determined
by the Secretary, administrative law judge,
review board, or court, respectively, in con-
nection with bringing the complaint upon
which the order was issued.
“(15) PROCEDURAL RIGHTS.—The rights and remedies provided for in this subsection may not be waived by any agreement, policy, form, or condition of employment, including by any pre-dispute arbitration agreement or collective bargaining agreement.

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

“(17) ELECTION OF VENUE.—

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

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

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

“(B) REFERRALS.—If—

“(i) the Secretary receives a complaint pursuant to subparagraph (A)(i), the Sec-
retary shall not refer such complaint to a
State plan administrator for resolution; or

“(ii) a State plan administrator re-
ceives a complaint pursuant to subpara-
graph (A)(ii), the State plan administrator
shall not refer such complaint to the Sec-
retary for resolution.

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

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

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

“(A) the term ‘retaliate or discriminate
against’ includes reporting, or threatening to
report, to a Federal, State, or local authority
the suspected citizenship or immigration status
of a covered employee, or of a family member
of a covered employee, because the covered em-
ployee raises a concern about workplace health
and safety practices or hazards; and

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

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

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

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

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

Not later than 1 year after the date of enactment
of this Act, the Secretary shall issue a final rule regarding
matters pertaining to the proposed rule issued by the Secretary on January 29, 2010, entitled “Occupational Injury and Illness Recording and Reporting Requirements” (75 Fed. Reg. 4728).

SEC. 128. FUNDING FOR ADDITIONAL OSHA INSPECTORS.

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

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

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

SEC. 129. OSHA REPORTING.

(a) Definition of Pandemic.—In this section, the term “pandemic” means a public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to a pandemic.

(b) Reporting During a Pandemic.—

(1) Standardized Reporting.—

(A) In General.—The Secretary shall establish a standardized process for covered establishments to report, on a weekly basis during
a pandemic, to the Secretary information re-

garding infections and deaths related to the 
pandemic. Such information shall include—

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

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

(iii) the employment status of such 
employees.

(B) FORM AND PROCEDURES.—

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

(ii) FUTURE PANDEMICS.—Not later 
than 1 year after the date of enactment of 
this Act, or 7 days following a declaration 
of a pandemic other than COVID–19, 
whichever is sooner, the Secretary shall
issue reporting procedures described in subparagraph (A), including forms for such procedures, for pandemics other than COVID–19.

(2) **Public Availability.**—The Secretary shall make the information reported under paragraph (1) available to the public in a manner that facilitates public participation, including by making such information available on its website in a manner that maximizes public participation.

(3) **Privacy.**—A covered establishment, in reporting information to the Secretary under paragraph (1), may not claim confidential business information or patient privacy, except that such an establishment may withhold the names of workers, as a basis to withhold information.

(c) **Disclosures to Employees.**—A covered establishment shall disclose to each employee or individual providing work for the employer, including any individual providing such work through a contract or subcontract, all chemicals used at the worksite where the employee or individual provides such work. Such disclosure shall be provided to the employee or individual in the native language of the employee or individual.
SEC. 130. PRIVATE RIGHT OF ACTION.

(a) IN GENERAL.—Any person aggrieved by the failure of a covered establishment to comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), including any regulation promulgated pursuant to such Act, or to comply with this subtitle may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties, or in any other court of competent jurisdiction.

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

(c) ACTION BY THE SECRETARY.—Any administrative enforcement by the Secretary shall not preclude the relief afforded by this section or otherwise deprive a court of jurisdiction.

SEC. 131. INJUNCTION PROCEEDINGS.

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

(1) in subsection (a), by adding at the end the following: “Any employee (or the representative of such employee) at a place of employment subject to
enforcement under this subsection may unconditionally intervene as a matter of right.”; and

(2) in subsection (d), by adding at the end the following: “The right to judicial review provided in this subsection shall extend to, and the district court shall have jurisdiction to adjudicate, any action, inaction, or failure to act by the Secretary with respect to an imminent danger regardless of whether the Secretary, an inspector, or any other individual determines the existence or absence of an imminent danger.”.

Subtitle D—Savings Provision

SEC. 136. SAVINGS PROVISION.

Nothing in title shall be construed to diminish the rights, privileges, or remedies of any employee who exercises rights under any Federal or State law or common law, or under any collective bargaining agreement.

TITLE II—FARM SYSTEM REFORMS

SEC. 201. EXPANDED MEAT AND POULTRY PROCESSING GRANTS.

Section 764 of division N of the Consolidated Appropriations Act, 2021 (21 U.S.C. 473), is amended—

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

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

(C) in the matter preceding subparagraph (A) (as so redesignated), by striking “To be eligible” and inserting the following:

“(1) IN GENERAL.—To be eligible”;

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

(i) in the matter preceding subparagraph (A) (as so redesignated), by striking “shall be—” and inserting “shall—”;

(ii) in subparagraph (A) (as so redesignated)—

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

(II) by striking “and” at the end;

(iii) in subparagraph (B) (as so redesignated)—

(I) in the matter preceding clause (i) (as so redesignated), by striking “seeking” and inserting “seek”; and
(II) in clause (ii) (as so redesignated), by striking the period at the end and inserting “; and”; and
(iv) by adding at the end the following:
“(C) have a labor peace agreement in place.”; and
(E) by adding at the end the following:
“(2) DEFINITION OF LABOR PEACE AGREEMENT.—In this subsection, the term ‘labor peace agreement’ means an agreement—
“(A) between an employer and a labor organization that represents, or is actively seeking to represent, the employees of the employer; and
“(B) under which such employer and labor organization agree that—
“(i) the employer will not—
“(I) hinder any effort of an employee to join a labor organization; or
“(II) take any action that directly or indirectly indicates or implies any opposition to an employee joining a labor organization;
“(ii) the labor organization agrees to refrain from picketing, work stoppages, or boycotts against the employer;

“(iii) the employer provides the labor organization with employee contact information, and facilitates or permits labor organization access to employees at the workplace, including facilitating or permitting the labor organization to meet with employees to discuss joining the labor organization; and

“(iv) the employer shall, upon the request of the labor organization, recognize the labor organization as the bargaining representative of the employees if a majority of the employees choose the labor organization as their bargaining representative.”;

(2) in subsection (d)(2)—

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

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting appropriately;
(C) in the matter preceding clause (i) (as so redesignated), by striking “recipient shall agree” and inserting the following: “recipient—

“(A) shall agree”;

(D) in subparagraph (A) (as so designated), in clause (ii) (as so redesignated), by striking the period at the end and inserting “; and”;

(E) by adding at the end the following:

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

(3) in subsection (f)—

(A) by striking “Of the funds” and inserting the following:

“(1) IN GENERAL.—Of the funds”; and

(B) by adding at the end the following:

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

(S 3285 IS)
$100,000,000 for the period of fiscal years 2022 through 2031.”.

**SEC. 202. LOCAL AGRICULTURE MARKET PROGRAM.**

Section 210A(i)(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1627c(i)(1)) is amended by striking “fiscal year 2019” and inserting “each of fiscal years 2019 and 2020, and $500,000,000 for fiscal year 2021”.

**SEC. 203. RESTORATION OF MANDATORY COUNTRY OF ORIGIN LABELING FOR BEEF AND PORK; INCLUSION OF DAIRY PRODUCTS.**

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

(1) by redesignating paragraphs (1), (2) through (5), (6), and (7) as paragraphs (2), (4) through (7), (9), and (10), respectively;

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

“(1) **BEEF.**—The term ‘beef’ means meat produced from cattle (including veal).”;

(3) in paragraph (2) (as so redesignated)—

(A) in subparagraph (A)—

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

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

(iv) in clause (xi), by striking the period at the end and inserting “; and”;

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

(B) in subparagraph (B), by inserting “(other than clause (xii) of that subparagraph)” after “subparagraph (A)”; (4) by inserting after paragraph (2) (as so redesignated) the following:

“(3) DAIRY PRODUCT.—The term ‘dairy product’ means—

“(A) fluid milk;

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

“(C) yogurt;

“(D) ice cream;

“(E) butter; and

“(F) any other dairy product.”; and

(5) by inserting after paragraph (7) (as so redesignated) the following:
“(8) Pork.—The term ‘pork’ means meat produced from hogs.”.

(b) Notice of Country of Origin.—Section 282(a) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638a(a)) is amended by adding at the end the following:

“(5) Designation of Country of Origin for Dairy Products.—

“(A) In general.—A retailer of a covered commodity that is a dairy product shall designate the origin of the covered commodity as—

“(i) each country in which or from which the 1 or more dairy ingredients or dairy components of the covered commodity were produced, originated, or sourced; and

“(ii) each country in which the covered commodity was processed.

“(B) State, region, locality of the United States.—With respect to a covered commodity that is a dairy product produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where the covered commodity
was produced shall be sufficient to identify the United States as the country of origin.’’.

SEC. 204. DEFINITIONS IN PACKERS AND STOCKYARDS ACT, 1921.

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

(1) in paragraph (8), by striking ‘‘for slaugh-

ter’’ and all that follows through ‘‘of such poultry’’

and inserting ‘‘under a poultry growing arrange-

ment, regardless of whether the poultry is owned by

that person or another person’’;

(2) in paragraph (9), by striking ‘‘and cares for

live poultry for delivery, in accord with another’s in-

structions, for slaughter’’ and inserting ‘‘or cares for

live poultry in accordance with the instructions of

another person’’;

(3) in each of paragraphs (1) through (9), by

striking the semicolon at the end and inserting a pe-

period;

(4) in paragraph (10)—

(A) by striking ‘‘for the purpose of either

slaughtering it or selling it for slaughter by an-

other’’; and

(B) by striking ‘‘; and’’ at the end and in-

serting a period; and
(5) by adding at the end the following:

“(15) FORMULA PRICE.—

“(A) IN GENERAL.—The term ‘formula price’ means any price term that establishes a base from which a purchase price is calculated on the basis of a price that will not be determined or reported until a date that is after the date on which the forward price is established.

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

“(i) any price term that establishes a base from which a purchase price is calculated on the basis of a futures market price; or

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

“(16) FORWARD CONTRACT.—The term ‘forward contract’ means an oral or written contract for the purchase of livestock that provides for the delivery of the livestock to a packer at a date that is more than 7 days after the date on which the con-
tract is entered into, without regard to whether the contract is for—

“(A) a specified lot of livestock; or

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

SEC. 205. UNLAWFUL PRACTICES.

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

(1) by redesignating subsections (a) through (f) and (g) as paragraphs (1) through (6) and (10), respectively, and indenting appropriately;

(2) by striking the section designation and all that follows through “It shall be” in the matter preceding paragraph (1) (as so redesignated) and inserting the following:

“SEC. 202. UNLAWFUL ACTS.

“(a) In General.—It shall be”;

(3) in subsection (a)—

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

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

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

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

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

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

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

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

“(B) is not offered for bid in an open, public manner under which—

“(i) buyers and sellers have the opportunity to participate in the bid;

“(ii) more than 1 blind bid is solicited; and

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

“(C) is based on a formula price; or
“(D) provides for the sale of livestock in a quantity in excess of—

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

“(ii) in the case of swine, 30 swine;

and

“(iii) in the case of another type of livestock, a comparable quantity of that type of livestock, as determined by the Secretary.

“(8) Own or feed livestock directly, through a subsidiary, or through an arrangement that gives a packer operational, managerial, or supervisory control over the livestock, or over the farming operation that produces the livestock, to such an extent that the producer of the livestock is not materially participating in the management of the operation with respect to the production of the livestock, except that this paragraph shall not apply to—

“(A) an arrangement entered into not more than 7 business days before slaughter of the livestock by a packer, a person acting through the packer, or a person that directly or indirectly controls, or is controlled by or under common control with, the packer;
“(B) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

“(i) own, feed, or control the livestock;

and

“(ii) provide the livestock to the cooperative for slaughter;

“(C) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer; or

“(D) a packer that owns only 1 livestock processing plant.

“(9) Take any action that adversely affects or is likely to adversely affect competition, regardless of whether there is a business justification for the action.”; and

(E) in paragraph (10) (as so redesignated), by striking “subdivision (a), (b), (c), (d), or (e)” and inserting “paragraphs (1) through (9)”;}
“(b) Unfair, Discriminatory, and Deceptive Practices and Devices.—Acts by a packer, swine contractor, or live poultry dealer that violate subsection (a)(1) include the following:

“(1) Refusal to provide, on the request of a livestock producer, swine production contract grower, or poultry grower with which the packer, swine contractor, or live poultry dealer has a marketing or delivery contract, the relevant statistical information and data used to determine the compensation paid to the livestock producer, swine production contract grower, or poultry grower, as applicable, under the contract, including—

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

“(B) feed analysis;

“(C) breeder history;

“(D) quality grade;

“(E) yield grade; and

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

“(2) Conduct or action that limits or attempts to limit by contract the legal rights and remedies of
a livestock producer, swine production contract
grower, or poultry grower, including the right—

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

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

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

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

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

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

“(1) IN GENERAL.—Acts by a packer, swine
contractor, or live poultry dealer that violate sub-
section (a)(2) include the following:
“(A) A retaliatory action (including coercion or intimidation) or the threat of retaliatory action—

“(i) in connection with the execution, termination, extension, or renewal of a contract or agreement with a livestock producer, swine production contract grower, or poultry grower aimed to discourage the exercise of the rights of the livestock producer, swine production contract grower, or poultry grower under this Act or any other law; and

“(ii) in response to lawful communication (including as described in paragraph (2)), association, or assertion of rights by a livestock producer, swine production contract grower, or poultry grower.

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

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

“(A) a communication with officials of a Federal agency or Members of Congress;
“(B) any lawful disclosure that demonstrates a reasonable belief of a violation of this Act or any other law; and

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

“(3) USE OF TOURNAMENT SYSTEM FOR POULTRY.—

“(A) IN GENERAL.—Subject to subparagraph (B), a live poultry dealer shall be in violation of subsection (a)(2) if the live poultry dealer determines the formula for calculating the pay of a poultry grower in a tournament group by comparing the performance of the birds of other poultry growers in the group using factors outside the control of the poultry grower and within the control of the live poultry dealer.

“(B) EXCEPTION.—Under subparagraph (A), a live poultry dealer shall not be found in violation of subsection (a)(2) if the live poultry dealer demonstrates through clear and convincing evidence that the inputs and services described in subparagraph (C) that were used in the comparative evaluation were substantially the same in quality, quantity, and timing, as
applicable, for all poultry growers in the tournament group.

“(C) INPUTS AND SERVICES DESCRIBED.—

The inputs and services referred to in subparagraph (B) include, with respect to poultry growers in the same tournament group—

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

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

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

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

“(v) the number of birds in a flock delivered to each poultry grower;

“(vi) the timing of the pick-up of birds for processing (including the age of the birds and the number of days that the birds are in the care of the poultry grower) for each poultry grower;
“(vii) the death loss of birds during pick-up, transport, and time spent at the processing plant for each poultry grower;

“(viii) condemnations of parts of birds due to actions in processing for each poultry grower;

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

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

“(xi) the stated reasons for the cause of the death losses and condemnations described in clauses (vii) through (x);

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

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

“(d) HARM TO COMPETITION NOT REQUIRED.—In determining whether an act, device, or conduct is a violation under paragraph (1) or (2) of subsection (a), a finding that the act, device, or conduct adversely affected or is likely to adversely affect competition is not required.”.

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

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

(A) in the case of a packer of swine, beginning on the date that is 18 months after the date of enactment of this Act; and

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

SEC. 206. SPOT MARKET PURCHASES OF LIVESTOCK BY PACKERS.

The Packers and Stockyards Act, 1921, is amended by inserting after section 202 (7 U.S.C. 192) the following:
“SEC. 202A. 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 subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635 et seq.) 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) NONAFFILIATED PRODUCER.—The term ‘nonaffiliated producer’ means a producer of livestock—

“(A) that sells livestock to a packer;

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

“(C) that has no officers, directors, employees, or owners that are officers, directors, employees, or owners of the packer;

“(D) that has no fiduciary responsibility to the packer; and
“(E) in which the packer has no equity interest.

“(3) Spot market sale.—

“(A) In general.—The term ‘spot market sale’ means a purchase and sale of livestock by a packer from a producer—

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

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

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

“(B) Reasonable competitive bidding opportunity.—For the purposes of subparagraph (A)(iii), a reasonable competitive bidding opportunity shall be considered to exist if—

“(i) no written or oral agreement precludes the producer from soliciting or receiving bids from other 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 producer from soliciting or receiving bids from other packers.

“(b) GENERAL RULE.—Of the quantity of livestock that is slaughtered by a covered packer during each reporting day in each plant, the covered packer shall slaughter not less than the applicable percentage specified in subsection (c) of the quantity through spot market sales from nonaffiliated producers.

“(c) APPLICABLE PERCENTAGES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the applicable percentage shall be 50 percent.

“(2) EXCEPTIONS.—In the case of a covered packer that reported to the Secretary in the 2018 annual report that more than 60 percent of the livestock of the covered packer were committed procurement livestock, the applicable percentage shall be the greater of—
“(A) the difference between the percentage of committed procurement so reported and 100 percent; and

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

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

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

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

SEC. 207. INVESTIGATION OF LIVE POULTRY DEALERS.

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

(b) AUTHORITY TO REQUEST TEMPORARY INJUNCTION OR RESTRAINING ORDER.—Section 408(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 228a(a)), is
amended by inserting “or poultry care” after “on account of poultry”.

(c) Violations by Live Poultry Dealers.—Section 411 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228b–2), is amended—

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

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

SEC. 208. AWARD OF ATTORNEY FEES.

Section 204 of the Packers and Stockyards Act, 1921 (7 U.S.C. 194), is amended by adding at the end the following:

“(i) Attorney’s Fee.—The court shall award a reasonable attorney’s fee as part of the costs to a prevailing plaintiff in a civil action under this section.”.

SEC. 209. TECHNICAL AMENDMENTS.

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

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

(A) by striking “he shall cause” and inserting “the Secretary shall cause”; and
(B) by striking “his charges” and inserting “the charges”;

(2) in subsection (b), in the first sentence, by striking “he shall make a report in writing in which he shall state his findings” and inserting “the Secretary shall make a report in writing in which the Secretary shall state the findings of the Secretary”; and

(3) in subsection (c), by striking “he” and inserting “the Secretary”.

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

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

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

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

(A) by striking “his findings” and inserting “the findings of the Secretary”; and

(B) by striking “he” and inserting “the Secretary”; and
(4) in subsection (g), by striking “his officers, directors, agents, and employees” and inserting “the officers, directors, agents, and employees of the packer, live poultry dealer, or swine packer”.

TITLE III—GAO REPORTS

SEC. 301. REVIEW AND REPORT ON FRAGILITY AND NATIONAL SECURITY IN THE FOOD SYSTEM.

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

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

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

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

(A) consumers, farmers, rural communities, and meat and poultry processing workers;
(B) greenhouse gas emissions, climate
change, and costs borne by communities to
adapt to climate change;

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

(D) politics and political lobbying;

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

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

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

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

(A) to farmers; and

(B) by consumers;

(6) Federal support for the corporations that
control the largest percentage of the meat and poul-
try industry through contracts, procurement, subsidies, and other mechanisms;

(7) the risk of disruption caused by corporate consolidation among covered establishments, including an analysis of food supply chain issues resulting from the COVID–19 pandemic; and

(8) the extent to which breaking up the meat packing oligopoly would increase food system resiliency for the next pandemic.

SEC. 302. REVIEW AND REPORT ON RACIAL AND ETHNIC DISPARITIES IN MEAT AND POULTRY PROCESSING.

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

(1) The impacts of working in covered establishments to individuals working at such establishments who are employees, temporary workers, incarcerated workers, noncitizen workers admitted to the United States as nonimmigrants described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) or as ref-
ugees under section 207 of that Act (8 U.S.C. 1157), or noncitizen workers who are not lawfully present in the United States. Such review shall include a review of—

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

(B) psychological and mental health conditions of such individuals;

(C) exposure of such individuals to chemicals or other potential carcinogens and reproductive toxins;

(D) any physical or mental abuse, including sexual harassment, of such individuals by co-workers or managers;

(E) the risk of exposure to SARS–CoV–2 for such individuals;

(F) the extent to which such individuals are unable to seek appropriate relief for workplace injuries, abuse, and protection from exposure to SARS–CoV–2 during the COVID–19 emergency for fear of retaliation; and

(G) COVID–19 deaths and illnesses of such individuals, including the short- and long-term effects of COVID–19 for such individuals.
(2) The racial demographics and use of temporary workers to outsource the responsibility of covered establishments to provide a safe workplace.

(3) The racial demographics and use of incarcerated workers in covered establishments, including—

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

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

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

(D) the use of such workers by covered establishments to externalize employee cost.


(A) the extent to which predatory practices, such as limiting the ability of such work-
ers to choose and move between competing organ-
izations, are utilized by covered establish-
ments with respect to such workers;

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

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

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

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

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

SEC. 303. GAO REPORT ON LINE SPEEDS.

(a) IN GENERAL.—Not later than 90 days after the
end of the covered period, the Comptroller General of the
United States shall carry out, and submit to Congress a
report containing, a review of the actions taken by the Sec-
retary, 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.

(b) CONTENTS.—The review carried out under subsection (a) shall include information on, and an analysis of, with respect to covered establishments—

(1) all policies and regulations relating to inspection of those establishments that have been implemented by the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services during the COVID–19 emergency and the covered period;

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

(3) the extent to which those establishments have implemented guidance and recommendations to space workers 6 feet apart on production lines and in break rooms, locker rooms, and all other workspaces;

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

(A) bonus or work incentive programs; and

(B) sick leave that does not cover the full pay of a worker;
(5) the extent to which those establishments provide communications and training about COVID–19 in a language and at a literacy level workers understand;

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

(B) whether the face masks and personal protective equipment are provided to the workers free of charge; and

(C) usage of the face masks and personal protective equipment by the workers;

(7) any guidance provided to inspectors of those establishments by the Secretary, the Secretary of Labor, or the Secretary of Health and Human Services during the COVID–19 emergency;

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

(9) all humane handling reports issued, and enforcement actions taken, by the Secretary during the COVID–19 emergency pursuant to—
(A) Public Law 85–765 (commonly known as the “Humane Methods of Slaughter Act of 1958”) (7 U.S.C. 1901 et seq.); and

(B) good commercial practices regulations promulgated under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(10) the impact of faster line speeds on the ability of those establishments to maintain protections for workers;

(11) any instance of interference by a Federal agency with the contents of any report of findings based on a review of a covered establishment experiencing an outbreak of COVID–19 conducted by personnel of the Centers for Disease Control and Prevention; and

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