

118TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER (for himself, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Mr. SANDERS, Ms. WARREN, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protecting America’s Meatpacking Workers Act of
6 2023”.

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

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

2

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.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

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

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

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

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

23 (5) meat and poultry processing work was and
24 continues to be particularly dangerous during the

1 Coronavirus Disease 2019 (COVID–19) pandemic
2 due to, among other factors—

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

5 (B) the close proximity of meat processing
6 workers;

7 (C) cold conditions inside meat processing
8 facilities; and

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

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

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

16 (B) prioritized processing rates over work-
17 er health and welfare; and

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

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

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

4 (A) including—

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

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

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

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

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

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

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

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

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

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

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

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

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

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

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

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

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

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

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

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

22 (a) DEFINITIONS.—In this section:

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

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

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

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

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

11 (b) RULE ON WAIVERS.—

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

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

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

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

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

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

10 (i) per minute; and

11 (ii) per hour;

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

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

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

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

8 (4) EFFECT ON STATE LAW.—

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

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

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

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

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

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

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

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

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

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

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

1 (e) REPORTS.—

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

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

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

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

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

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

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

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

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

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

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

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

18 (I) to do each job safely; and

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

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

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

3 **SEC. 111. DEFINITIONS.**

4 In this subtitle:

5 (1) EMPLOYEE.—The term “employee” means
6 an individual who is—

7 (A)(i) an employee, as defined in section
8 3(e) of the Fair Labor Standards Act of 1938
9 (29 U.S.C. 203(e)), who is not covered under
10 subparagraph (E), including such an employee
11 of the Library of Congress, except that a ref-
12 erence in such section to an employer shall be
13 considered to be a reference to an employer de-
14 scribed in clauses (i)(I) and (ii) of paragraph
15 (2)(A); or

16 (ii) an employee of the Government Ac-
17 countability Office;

18 (B) a State employee described in section
19 304(a) of the Government Employee Rights Act
20 of 1991 (42 U.S.C. 2000e–16c(a));

21 (C) a covered employee, as defined in sec-
22 tion 101 of the Congressional Accountability
23 Act of 1995 (2 U.S.C. 1301);

24 (D) a covered employee, as defined in sec-
25 tion 411(c) of title 3, United States Code; or

1 (E) a Federal officer or employee covered
2 under subchapter V of chapter 63 of title 5,
3 United States Code (without regard to the limi-
4 tation in section 6381(1)(B) of that title).

5 (2) EMPLOYER.—

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

8 (i)(I) a covered employer, as defined
9 in subparagraph (B), who is not covered
10 under any other subclause of this clause;

11 (II) an entity employing a State em-
12 ployee described in section 304(a) of the
13 Government Employee Rights Act of 1991;

14 (III) an employing office, as defined
15 in section 101 of the Congressional Ac-
16 countability Act of 1995;

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

20 (V) an employing agency covered
21 under subchapter V of chapter 63 of title
22 5, United States Code; and

23 (ii) engaged in commerce (including
24 government), or an industry or activity af-

fecting 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 activ-
ity affecting commerce who employs
15 or more employees for each work-
ing 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 inter-
est of an employer to any of the
employees of such employer; and

(bb) any successor in inter-
est 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

1 (IV) includes the Government
2 Accountability Office and the Library
3 of Congress.

4 (ii) PUBLIC AGENCY.—For purposes
5 of clause (i)(III), a public agency shall be
6 considered to be a person engaged in com-
7 merce or in an industry or activity affect-
8 ing commerce.

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

11 (I) COMMERCE.—The terms
12 “commerce” and “industry or activity
13 affecting commerce” mean any activ-
14 ity, business, or industry in commerce
15 or in which a labor dispute would
16 hinder or obstruct commerce or the
17 free flow of commerce, and include
18 commerce and any industry affecting
19 commerce, as defined in paragraphs
20 (1) and (3) of section 501 of the
21 Labor Management Relations Act,
22 1947 (29 U.S.C. 142).

23 (II) EMPLOYEE.—The term “em-
24 ployee” has the meaning given such
25 term in section 3(e) of the Fair Labor

1 Standards Act of 1938 (29 U.S.C.
2 203(e)).

3 (C) PREDECESSORS.—Any reference in
4 this paragraph to an employer shall include a
5 reference to any predecessor of such employer.

6 (3) LEGALLY PROTECTED LEAVE.—The term
7 “legally protected leave”, when used with respect to
8 an employee, means leave that is protected under a
9 Federal, State, or local law applicable to the em-
10 ployee.

11 (4) NO FAULT ATTENDANCE POLICY.—The
12 term “no fault attendance policy” means a policy or
13 pattern and practice maintained by an employer
14 under which employees face consequences for any
15 absence, tardy, or early departure through the as-
16 sessment of points (also referred to as “demerits” or
17 “occurrences”) or deductions from an allotted bank
18 of time, and those points or deductions subject the
19 employee to progressive disciplinary action, which
20 may include failure to receive a promotion, loss of
21 pay, or termination.

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

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Labor, acting through the Adminis-
3 trator of the Wage and Hour Division.

4 **SEC. 112. REQUIREMENTS FOR EMPLOYERS RELATING TO**
5 **NO FAULT ATTENDANCE POLICIES OR AT-**
6 **TENDANCE SYSTEMS.**

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

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

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

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

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

1 (3) The employer shall provide employees with
2 a means of accessing the no fault attendance policy
3 at any physical workplace and outside of a physical
4 workplace.

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

10 (5) The no fault attendance policy shall specifi-
11 cally reference and provide a reasonable amount of
12 detail about all Federal, State, and local laws appli-
13 cable to the employees that provide legally protected
14 leave, including the Americans with Disabilities Act
15 of 1990 (42 U.S.C. 12101 et seq.), the Family and
16 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.),
17 and chapter 43 of title 38, United States Code.

18 (6) The no fault attendance policy shall identify
19 a process for employees to complete each of the fol-
20 lowing:

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

23 (B) Provide medical documentation, if it is
24 required under the no fault attendance policy in

1 order to avoid disciplinary action or other ad-
2 verse consequences for legally protected leave.

3 (C) Seek removal of points that an em-
4 ployee believes were wrongly assessed, or the
5 restoration of time that an employee believes
6 was wrongly deducted for legally protected
7 leave.

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

11 (b) REQUIREMENTS FOR ATTENDANCE SYSTEMS.—

12 It shall be an unlawful employment practice for an em-
13 ployer to maintain any attendance system policy, or pat-
14 tern and practice, that discourages employees from exer-
15 cising, or attempting to exercise, any right to legally pro-
16 tected leave.

17 (c) ADDITIONAL PROHIBITIONS.—

18 (1) INTERFERENCE WITH RIGHTS.—

19 (A) EXERCISE OF RIGHTS.—It shall be an
20 unlawful employment practice for any employer
21 to interfere with, restrain, or deny the exercise
22 of, or the attempt to exercise, any right pro-
23 vided under this subtitle, including—

24 (i) discharging or discriminating
25 against (including retaliating against) any

1 individual for exercising, or attempting to
2 exercise, any right provided under this sub-
3 title; or

4 (ii) using the taking of legally pro-
5 tected leave as a negative factor in an em-
6 ployment action, such as hiring, promotion,
7 reducing hours or number of shifts, or a
8 disciplinary action.

9 (B) DISCRIMINATION.—It shall be an un-
10 lawful employment practice for any employer to
11 discharge or in any other manner discriminate
12 against (including retaliating against) any indi-
13 vidual for opposing any practice made unlawful
14 by this subtitle.

15 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
16 QUIRIES.—It shall be an unlawful employment prac-
17 tice for any person to discharge or in any other
18 manner discriminate against (including retaliating
19 against) any individual because such individual—

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

23 (B) has given, or is about to give, any in-
24 formation in connection with any inquiry or

1 proceeding relating to any right provided under
2 this subtitle; or

3 (C) has testified, or is about to testify, in
4 any inquiry or proceeding relating to any right
5 provided under this subtitle.

6 **SEC. 113. ENFORCEMENT AUTHORITY.**

7 (a) IN GENERAL.—

8 (1) DEFINITION.—In this subsection—

9 (A) the term “employee” means an em-
10 ployee described in subparagraph (A) or (B) of
11 section 111(1);

12 (B) the term “employer” means an em-
13 ployer described in clauses (i)(I) and (ii) of sec-
14 tion 111(2)(A) or clauses (i)(II) and (ii) of such
15 section; and

16 (C) the term “other individual affected”
17 does not include an individual covered under
18 subsection (b), (c), or (d).

19 (2) INVESTIGATIVE AUTHORITY.—

20 (A) IN GENERAL.—To ensure compliance
21 with the provisions of this subtitle, or any regu-
22 lation or order issued under this subtitle, the
23 Secretary shall have the investigative authority
24 provided under section 11(a) of the Fair Labor
25 Standards Act of 1938 (29 U.S.C. 211(a)),

1 with respect to employers, employees, and other
2 individuals affected.

3 (B) SUBPOENA AUTHORITY.—For the pur-
4 poses of any investigation provided for in this
5 paragraph, the Secretary shall have the sub-
6 poena authority provided for under section 9 of
7 the Fair Labor Standards Act of 1938 (29
8 U.S.C. 209).

9 (3) CIVIL ACTION BY EMPLOYEES OR OTHER
10 INDIVIDUALS AFFECTED.—

11 (A) RIGHT OF ACTION.—An action to re-
12 cover the damages or equitable relief prescribed
13 in subparagraph (B) may be maintained
14 against any employer in any Federal or State
15 court of competent jurisdiction by one or more
16 employees or other individuals affected or their
17 representative for and on behalf of—

18 (i) the employees or individuals; or
19 (ii) the employees or individuals and
20 others similarly situated.

21 (B) LIABILITY.—Any employer who vio-
22 lates section 112 shall be liable to any employee
23 or other individual affected—

24 (i) for damages equal to—

25 (I) the amount of—

1 (aa) any wages, salary, em-
2 ployment benefits, or other com-
3 pensation denied or lost by rea-
4 son of the violation; or

5 (bb) in a case in which
6 wages, salary, employment bene-
7 fits, or other compensation have
8 not been denied or lost, any ac-
9 tual monetary losses sustained as
10 a direct result of the violation up
11 to a sum equal to 56 hours of
12 wages or salary for the employee
13 or individual;

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

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

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

22 (C) FEES AND COSTS.—The court in an
23 action under this paragraph shall, in addition to
24 any judgment awarded to the plaintiff, allow a
25 reasonable attorney's fee, reasonable expert wit-

1 ness fees, and other costs of the action to be
2 paid by the defendant.

3 (4) ACTION BY THE SECRETARY.—

4 (A) ADMINISTRATIVE ACTION.—The Sec-
5 retary shall receive, investigate, and attempt to
6 resolve complaints of violations of section 112
7 with respect to employers, employees, and other
8 individuals affected in the same manner that
9 the Secretary receives, investigates, and at-
10 tempts to resolve complaints of violations of
11 sections 6 and 7 of the Fair Labor Standards
12 Act of 1938 (29 U.S.C. 206 and 207).

13 (B) CIVIL ACTION.—The Secretary may
14 bring an action in any court of competent juris-
15 diction to recover the damages described in
16 paragraph (3)(B)(i).

17 (C) SUMS RECOVERED.—Any sums recov-
18 ered by the Secretary pursuant to subparagraph
19 (B) shall be held in a special deposit account
20 and shall be paid, on order of the Secretary, di-
21 rectly to each employee or other individual af-
22 fected. Any such sums not paid to an employee
23 or other individual affected because of inability
24 to do so within a period of 3 years shall be de-

1 posited into the Treasury of the United States
2 as miscellaneous receipts.

3 (5) LIMITATION.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), an action may be brought
6 under paragraph (3), (4), or (6) not later than
7 2 years after the date of the last event consti-
8 tuting the alleged violation for which the action
9 is brought.

10 (B) WILLFUL VIOLATION.—In the case of
11 an action brought for a willful violation of sec-
12 tion 112, such action may be brought not later
13 than 3 years after of the last event constituting
14 the alleged violation for which such action is
15 brought.

16 (C) COMMENCEMENT.—In determining
17 when an action is commenced under paragraph
18 (3), (4), or (6) for the purposes of this para-
19 graph, it shall be considered to be commenced
20 on the date when the complaint is filed.

21 (6) ACTION FOR INJUNCTION BY SECRETARY.—

22 The district courts of the United States shall have
23 jurisdiction, for cause shown, in an action brought
24 by the Secretary—

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

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

10 (7) SOLICITOR OF LABOR.—The Solicitor of
11 Labor may appear for and represent the Secretary
12 on any litigation brought under paragraph (4) or
13 (6).

14 (8) GOVERNMENT ACCOUNTABILITY OFFICE
15 AND LIBRARY OF CONGRESS.—Notwithstanding any
16 other provision of this subsection, in the case of the
17 Government Accountability Office and the Library of
18 Congress, the authority of the Secretary of Labor
19 under this subsection shall be exercised respectively
20 by the Comptroller General of the United States and
21 the Librarian of Congress.

22 (b) EMPLOYEES COVERED BY CONGRESSIONAL AC-
23 COUNTABILITY ACT OF 1995.—The powers, remedies, and
24 procedures provided in the Congressional Accountability
25 Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as de-

1 fined in section 101 of that Act (2 U.S.C. 1301)), or any
2 person, alleging a violation of section 202(a)(1) of that
3 Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies,
4 and procedures this subtitle provides to that Board, or any
5 person, alleging an unlawful employment practice in viola-
6 tion of this subtitle against an employee described in sec-
7 tion 111(1)(C) or other individual affected by an employer
8 described in clauses (i)(III) and (ii) of section 111(2)(A).

9 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
10 3, UNITED STATES CODE.—The powers, remedies, and
11 procedures provided in chapter 5 of title 3, United States
12 Code, to the President, the Merit Systems Protection
13 Board, or any person, alleging a violation of section
14 412(a)(1) of that title, shall be the powers, remedies, and
15 procedures this subtitle provides to the President, that
16 Board, or any person, respectively, alleging an unlawful
17 employment practice in violation of this subtitle against
18 an employee described in section 111(1)(D) or other indi-
19 vidual affected by an employer described in clauses (i)(IV)
20 and (ii) of section 111(2)(A) .

21 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
22 5, UNITED STATES CODE.—The powers, remedies, and
23 procedures provided in title 5, United States Code, to an
24 employing agency, provided in chapter 12 of that title to
25 the Merit Systems Protection Board, or provided in that

1 title to any person, alleging a violation of chapter 63 of
2 that title, shall be the powers, remedies, and procedures
3 this subtitle provides to that agency, that Board, or any
4 person, respectively, alleging an unlawful employment
5 practice in violation of this subtitle against an employee
6 described in section 111(1)(E) or other individual affected
7 by an employer described in clauses (i)(V) and (ii) of sec-
8 tion 111(2)(A).

9 **SEC. 114. REGULATIONS.**

10 (a) IN GENERAL.—

11 (1) AUTHORITY.—Except as provided in para-
12 graph (2), not later than 180 days after the date of
13 enactment of this Act, the Secretary, in coordination
14 with the Equal Employment Opportunity Commis-
15 sion and the heads of other relevant Federal agen-
16 cies, shall prescribe such regulations as are nec-
17 essary to carry out this subtitle with respect to em-
18 ployees described in subparagraph (A) or (B) of sec-
19 tion 111(1) and other individuals affected by em-
20 ployers described in clauses (i)(I) and (ii) of section
21 111(2)(A) or clauses (i)(II) and (ii) of such section.

22 (2) GOVERNMENT ACCOUNTABILITY OFFICE; LI-
23 BRARY OF CONGRESS.—The Comptroller General of
24 the United States and the Librarian of Congress
25 shall prescribe the regulations with respect to em-

1 ployees of the Government Accountability Office and
2 the Library of Congress, respectively, and other indi-
3 viduals affected by the Comptroller General of the
4 United States and the Librarian of Congress, re-
5 spectively.

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

8 (1) AUTHORITY.—Not later than 90 days after
9 the Secretary prescribes regulations under sub-
10 section (a), the Board of Directors of the Office of
11 Compliance shall prescribe (in accordance with sec-
12 tion 304 of the Congressional Accountability Act of
13 1995 (2 U.S.C. 1384)) such regulations as are nec-
14 essary to carry out this subtitle with respect to em-
15 ployees described in section 111(1)(C) and other in-
16 dividuals affected by employers described in clauses
17 (i)(III) and (ii) of section 111(2)(A).

18 (2) AGENCY REGULATIONS.—The regulations
19 prescribed under paragraph (1) shall be the same as
20 substantive regulations promulgated by the Sec-
21 retary to carry out this subtitle except insofar as the
22 Board may determine, for good cause shown and
23 stated together with the regulations prescribed
24 under paragraph (1), that a modification of such
25 regulations would be more effective for the imple-

1 mentation of the rights and protections involved
2 under this section.

3 (c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE
4 3, UNITED STATES CODE.—

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

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

23 (d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE
24 5, UNITED STATES CODE.—

1 (1) AUTHORITY.—Not later than 90 days after
2 the Secretary prescribes regulations under sub-
3 section (a), the Director of the Office of Personnel
4 Management shall prescribe such regulations as are
5 necessary to carry out this subtitle with respect to
6 employees described in section 111(1)(E) and other
7 individuals affected by employers described in
8 clauses (i)(V) and (ii) of section 111(2)(A).

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

19 (e) REQUIREMENTS FOR ALL REGULATIONS.—All
20 regulations prescribed under this section shall—

21 (1) be issued in an accessible format in accord-
22 ance with subchapter II of chapter 5 of title 5,
23 United States Code; and

1 (2) provide an example of a model no fault at-
2 tendance policy that conforms to the requirements of
3 this subtitle.

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

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

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

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

21 **SEC. 117. SEVERABILITY.**

22 If any provision of this subtitle or the application of
23 that provision to particular persons or circumstances is
24 held invalid or found to be unconstitutional, the remainder

1 of this subtitle and the application of that provision to
2 other persons or circumstances shall not be affected.

3 **Subtitle C—Occupational Safety**
4 **and Health Administration Re-**
5 **forms**

6 **SEC. 121. DEFINITIONS.**

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

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

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

1 by the Occupational Safety and Health Administration on
2 April 6, 1998.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (D) medical management that includes—

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

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

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

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

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

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

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

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

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

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

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

1 (iii) providing onsite health services
2 for treatment of such injury or illness; and
3 (iv) consultation referral to a local
4 health care provider for treating such in-
5 jury or illness; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (6) CONSULTATION.—In developing the stand-
10 ards under this subsection, the Secretary shall con-
11 sult with—

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

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

16 (C) the professional associations and rep-
17 resentatives of the employees, contractors, and
18 temporary workers at covered establishments.

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

21 (A) a requirement that the covered estab-
22 lishments—

23 (i) develop and implement a com-
24 prehensive infectious disease exposure con-
25 trol plan, with the input and involvement

1 of employees or, where applicable, the rep-
2 resentatives of employees, as appropriate,
3 to address the risk of occupational expo-
4 sure;

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

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

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

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

23 (i) guidelines issued by the Centers
24 for Disease Control and Prevention, the
25 National Institute for Occupational Safety

1 and Health, and the Occupational Safety
2 and Health Administration, which are de-
3 signed to prevent the transmission of infec-
4 tious agents in health care or other occu-
5 pational settings; and

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

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

13 **SEC. 124. PERMANENT REGIONAL EMPHASIS INSPECTION**
14 **PROGRAM; EXPANDING INSPECTIONS.**

15 (a) REGIONAL EMPHASIS INSPECTION PROGRAM.—

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

24 (A) amputation hazards;

25 (B) ergonomics;

1 (C) hazards related to line speeds;
2 (D) bathroom breaks;
3 (E) use of chemicals such as peracetic acid
4 (antimicrobials); and
5 (F) working conditions in high and low
6 temperatures.

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

15 (b) EXPANDING INSPECTIONS WHEN INFORMATION
16 PRESENTS POSSIBLE ADDITIONAL DANGERS.—

17 (1) IN GENERAL.—In the case the Secretary
18 conducts a physical inspection of a covered establish-
19 ment pursuant to section 8 of such Act in response
20 to a referral, complaint, or fatality, and the Sec-
21 retary, during such inspection makes a determina-
22 tion under paragraph (2), the Secretary shall expand
23 such inspection to all areas of the establishment.

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

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

7 (B) A determination, upon interviews with
8 employees, that a workplace danger may threat-
9 en physical harm.

10 **SEC. 125. REPRESENTATIVES DURING PHYSICAL INSPEC-**
11 **TIONS.**

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

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

23 (2) where there is no representative authorized
24 by employees as described in paragraph (1), the em-
25 ployees may designate a person affiliated with a

1 worker-based community organization to serve as
2 such representative; and

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

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

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

11 (a) EMPLOYEE ACTIONS.—Section 11(c)(1) of the
12 Occupational Safety and Health Act of 1970 (29 U.S.C.
13 660(c)(1)) is amended—

14 (1) by striking “discharge” and all that follows
15 through “because such” and inserting the following:
16 “discharge or cause to be discharged, or in any
17 other manner retaliate or discriminate against or
18 cause to be retaliated or discriminated against, any
19 employee because—

20 “(A) such”;

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

23 “(B) such employee has”;

24 (3) by striking “in any such proceeding or be-
25 cause of the exercise” and inserting the following:

1 “before Congress or in any Federal or State pro-
2 ceeding related to safety or health;

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

5 “(D) of the exercise”; and

6 (4) by inserting before the period at the end the
7 following: “, including the reporting of any injury,
8 illness, or unsafe condition to the employer, agent of
9 the employer, safety and health committee involved,
10 or employee safety and health representative in-
11 volved”.

12 (b) PROHIBITION OF RETALIATION; PROCEDURE.—

13 Section 11 of such Act (29 U.S.C. 660) is amended—

14 (1) in subsection (c)—

15 (A) in paragraph (2)—

16 (i) by striking “discharged or other-
17 wise discriminated against by any person
18 in violation of this subsection” and insert-
19 ing “aggrieved by a violation of this sub-
20 section”; and

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

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

24 “(4) EXCEPTION FOR MEAT AND POULTRY ES-
25 TABLISHMENTS.—Paragraphs (2) and (3) shall not

1 apply with respect to a complaint filed by an em-
2 ployee of an employer that is a covered establish-
3 ment, as defined in section 3 of the Protecting
4 America’s Meatpacking Workers Act.”; and

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

6 “(d) MEAT AND POULTRY ESTABLISHMENTS.—

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

8 “(A) COMPLAINANT.—The term ‘complain-
9 ant’ means a complainant who is a covered em-
10 ployee.

11 “(B) COVERED EMPLOYEE.—The term
12 ‘covered employee’ means an employee of a cov-
13 ered employer.

14 “(C) COVERED EMPLOYER.—The term
15 ‘covered employer’ means an employer that is a
16 covered establishment, as defined in section 3 of
17 the Protecting America’s Meatpacking Workers
18 Act.

19 “(D) RESPONDENT.—The term ‘respond-
20 ent’ means a respondent who is a covered em-
21 ployer.

22 “(2) REASONABLE APPREHENSION.—

23 “(A) IN GENERAL.—No person shall dis-
24 charge, or cause to be discharged, or in any
25 other manner retaliate or discriminate against,

1 or cause to be retaliated or discriminated
2 against, a covered employee for refusing to per-
3 form the covered employee's duties if the cov-
4 ered employee has a reasonable apprehension
5 that performing such duties would result in se-
6 rious injury to, or serious impairment of the
7 health of, the covered employee or other covered
8 employees.

9 “(B) CIRCUMSTANCES.—For purposes of
10 subparagraph (A), the circumstances causing
11 the covered employee's reasonable apprehension
12 described in such subparagraph shall be of such
13 a nature that a reasonable person, under the
14 circumstances confronting the covered em-
15 ployee, would conclude that performing the du-
16 ties described in such subparagraph would have
17 the result described in such subparagraph.

18 “(C) COMMUNICATION.—In order to qual-
19 ify for protection under this paragraph, the cov-
20 ered employee, when practicable, shall have
21 communicated or attempted to communicate the
22 safety or health concern to the covered em-
23 ployer and have not received from the covered
24 employer a response reasonably calculated to
25 allay such concern.

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

8 “(4) STATUTE OF LIMITATIONS.—

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

12 “(i) the date on which an alleged vio-
13 lation of subsection (c)(1) or paragraph (2)
14 of this subsection occurs; or

15 “(ii) the date on which the covered
16 employee knows or should reasonably have
17 known that such alleged violation occurred.

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

24 “(5) INVESTIGATION.—

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

9 “(i) shall include—

10 “(I) interviewing the complain-
11 ant;

12 “(II) providing the respondent an
13 opportunity to—

14 “(aa) submit to the Sec-
15 retary a written response to the
16 complaint; and

17 “(bb) meet with the Sec-
18 retary to present statements from
19 witnesses or provide evidence;
20 and

21 “(III) providing the complainant
22 an opportunity to—

23 “(aa) receive any statements
24 or evidence provided to the Sec-
25 retary;

1 “(bb) meet with the Sec-
2 retary; and

3 “(cc) rebut any statements
4 or evidence; and

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

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

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

14 “(ii) issue a decision granting or de-
15 nying relief.

16 “(6) PRELIMINARY ORDER FOLLOWING INVES-
17 TIGATION.—If, after completion of an investigation
18 under paragraph (5)(A), the Secretary finds reason-
19 able cause to believe that a violation of subsection
20 (c)(1) or paragraph (2) of this subsection has oc-
21 curred, the Secretary shall issue a preliminary order
22 providing relief authorized under paragraph (14) at
23 the same time the Secretary issues a decision under
24 paragraph (5)(B). If a de novo hearing is not re-
25 quested within the time period required under para-

1 graph (7)(A)(i), such preliminary order shall be
2 deemed a final order of the Secretary and is not
3 subject to judicial review.

4 “(7) HEARING.—

5 “(A) REQUEST FOR HEARING.—

6 “(i) IN GENERAL.—A de novo hearing
7 on the record before an administrative law
8 judge may be requested—

9 “(I) by the complainant or re-
10 spondent within 30 days after receiv-
11 ing notification of a decision granting
12 or denying relief issued under para-
13 graph (5)(B) or a preliminary order
14 under paragraph (6), respectively;

15 “(II) by the complainant within
16 30 days after the date the complaint
17 is dismissed without investigation by
18 the Secretary under paragraph (5)(A);
19 or

20 “(III) by the complainant within
21 120 days after the date of filing the
22 complaint under paragraph (5), if the
23 Secretary has not issued a decision
24 under paragraph (5)(B).

1 “(ii) REINSTATEMENT ORDER.—The
2 request for a hearing shall not operate to
3 stay any preliminary reinstatement order
4 issued under paragraph (6).

5 “(B) PROCEDURES.—

6 “(i) IN GENERAL.—A hearing re-
7 quested under this paragraph shall be con-
8 ducted expeditiously and in accordance
9 with rules established by the Secretary for
10 hearings conducted by administrative law
11 judges.

12 “(ii) SUBPOENAS; PRODUCTION OF
13 EVIDENCE.—In conducting any such hear-
14 ing, the administrative law judge may issue
15 subpoenas. The respondent or complainant
16 may request the issuance of subpoenas
17 that require the deposition of, or the at-
18 tendance and testimony of, witnesses and
19 the production of any evidence (including
20 any books, papers, documents, or record-
21 ings) relating to the matter under consid-
22 eration.

23 “(iii) DECISION.—The administrative
24 law judge shall issue a decision not later
25 than 90 days after the date on which a

1 hearing was requested under this para-
2 graph and promptly notify, in writing, the
3 parties and the Secretary of such decision,
4 including the findings of fact and conclu-
5 sions of law. If the administrative law
6 judge finds that a violation of subsection
7 (c)(1) or paragraph (2) of this subsection
8 has occurred, the judge shall issue an
9 order for relief under paragraph (14). If
10 review under paragraph (8) is not timely
11 requested, such order shall be deemed a
12 final order of the Secretary that is not sub-
13 ject to judicial review.

14 “(8) ADMINISTRATIVE APPEAL.—

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

23 “(B) STANDARD OF REVIEW.—In review-
24 ing the decision and order of the administrative
25 law judge, the review board shall affirm the de-

1 cision and order if it is determined that the fac-
2 tual findings set forth therein are supported by
3 substantial evidence and the decision and order
4 are made in accordance with applicable law.

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

18 “(9) SETTLEMENT IN THE ADMINISTRATIVE
19 PROCESS.—

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

1 “(B) PUBLIC POLICY CONSIDERATIONS.—

2 Neither the Secretary, an administrative law
3 judge, nor the review board conducting a hear-
4 ing under this subsection shall accept a settle-
5 ment that contains conditions conflicting with
6 the rights protected under this Act or that are
7 contrary to public policy, including a restriction
8 on a complainant’s right to future employment
9 with employers other than the specific covered
10 employers named in a complaint.

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

13 “(A) IN GENERAL.—The complainant may
14 bring a de novo action described in subpara-
15 graph (B) if—

16 “(i) an administrative law judge has
17 not issued a decision and order within the
18 90-day time period required under para-
19 graph (7)(B)(iii); or

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

24 “(B) DE NOVO ACTION.—Such de novo ac-
25 tion may be brought at law or equity in the

1 United States district court for the district
2 where a violation of subsection (c)(1) or para-
3 graph (2) of this subsection allegedly occurred
4 or where the complainant resided on the date of
5 such alleged violation. The court shall have ju-
6 risdiction over such action without regard to the
7 amount in controversy and to order appropriate
8 relief under paragraph (14). Such action shall,
9 at the request of either party to such action, be
10 tried by the court with a jury.

11 “(11) JUDICIAL REVIEW.—

12 “(A) TIMELY APPEAL TO THE COURT OF
13 APPEALS.—Any party adversely affected or ag-
14 grieved by a final decision and order issued
15 under this subsection may obtain review of such
16 decision and order in the United States Court
17 of Appeals for the circuit where the violation,
18 with respect to which such final decision and
19 order was issued, allegedly occurred or where
20 the complainant resided on the date of such al-
21 leged violation. To obtain such review, a party
22 shall file a petition for review not later than 60
23 days after the final decision and order was
24 issued. Such review shall conform to chapter 7
25 of title 5, United States Code. The commence-

1 ment of proceedings under this subparagraph
2 shall not, unless ordered by the court, operate
3 as a stay of the final decision and order.

4 “(B) LIMITATION ON COLLATERAL AT-
5 TACK.—An order and decision with respect to
6 which review may be obtained under subpara-
7 graph (A) shall not be subject to judicial review
8 in any criminal or other civil proceeding.

9 “(12) ENFORCEMENT OF ORDER.—If a re-
10 spondent fails to comply with an order issued under
11 this subsection, the Secretary or the complainant on
12 whose behalf the order was issued may file a civil ac-
13 tion for enforcement in the United States district
14 court for the district in which the violation was
15 found to occur to enforce such order. If both the
16 Secretary and the complainant file such action, the
17 action of the Secretary shall take precedence. The
18 district court shall have jurisdiction to grant all ap-
19 propriate relief described in paragraph (14).

20 “(13) BURDENS OF PROOF.—

21 “(A) CRITERIA FOR DETERMINATION.—In
22 making a determination or adjudicating a com-
23 plaint pursuant to this subsection, the Sec-
24 retary, administrative law judge, review board,
25 or a court may determine that a violation of

1 subsection (c)(1) or paragraph (2) of this sub-
2 section has occurred only if the complainant
3 demonstrates that any conduct described in
4 subsection (c)(1) or paragraph (2) of this sub-
5 section with respect to the complainant was a
6 contributing factor in the adverse action alleged
7 in the complaint.

8 “(B) PROHIBITION.—Notwithstanding sub-
9 paragraph (A), a decision or order that is favor-
10 able to the complainant shall not be issued in
11 any administrative or judicial action pursuant
12 to this subsection if the respondent dem-
13 onstrates by clear and convincing evidence that
14 the respondent would have taken the same ad-
15 verse action in the absence of such conduct.

16 “(14) RELIEF.—

17 “(A) ORDER FOR RELIEF.—If the Sec-
18 retary, administrative law judge, review board,
19 or a court determines that a covered employer
20 has violated subsection (c)(1) or paragraph (2)
21 of this subsection, the Secretary, administrative
22 law judge, review board, or court, respectively,
23 shall have jurisdiction to order all appropriate
24 relief, including injunctive relief, and compen-
25 satory and exemplary damages, including—

1 “(i) affirmative action to abate the
2 violation;

3 “(ii) reinstatement without loss of po-
4 sition or seniority, and restoration of the
5 terms, rights, conditions, and privileges as-
6 sociated with the complainant’s employ-
7 ment, including opportunities for pro-
8 motions to positions with equivalent or bet-
9 ter compensation for which the complain-
10 ant is qualified;

11 “(iii) compensatory and consequential
12 damages sufficient to make the complain-
13 ant whole (including back pay, prejudg-
14 ment interest, and other damages); and

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

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

9 “(i) reasonable attorneys’ fees; and

10 “(ii) costs (including expert witness
11 fees) reasonably incurred, as determined
12 by the Secretary, administrative law judge,
13 review board, or court, respectively, in con-
14 nection with bringing the complaint upon
15 which the order was issued.

16 “(15) PROCEDURAL RIGHTS.—The rights and
17 remedies provided for in this subsection may not be
18 waived by any agreement, policy, form, or condition
19 of employment, including by any pre-dispute arbitra-
20 tion agreement or collective bargaining agreement.

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

1 “(17) ELECTION OF VENUE.—

2 “(A) IN GENERAL.—A covered employee of
3 a covered employer who is located in a State
4 that has a State plan approved under section
5 18 may file a complaint alleging a violation of
6 subsection (c)(1) or paragraph (2) of this sub-
7 section by such employer with—

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

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

12 “(B) REFERRALS.—If—

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

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

22 “(18) PRESUMPTION OF RETALIATION.—The
23 Secretary shall apply an un rebuttable presumption
24 of retaliation in any complaint initiated under para-
25 graph (5) in which the Secretary finds a covered em-

1 ployee suffers an adverse action within 90 days of
2 the date on which the covered employee took any ac-
3 tion protected under subsection (c)(1) or raised any
4 reasonable apprehension under paragraph (2) of this
5 subsection.

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

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

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

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

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

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

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

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

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

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

22 Out of any amounts in the Treasury not otherwise
23 appropriated, there is appropriated \$60,000,000 to the
24 Secretary for each of fiscal years 2024 through 2029, to
25 remain available until expended for—

1 (1) the hiring of additional inspectors to carry
2 out inspections under section 8 of the Occupational
3 Safety and Health Act of 1970 (29 U.S.C. 657); and
4 (2) carrying out sections 6, 8, and 11 of the
5 Occupational Safety and Health Act of 1970 (29
6 U.S.C. 655; 657; and 660), as amended by this Act.

7 **SEC. 129. OSHA REPORTING.**

8 (a) DEFINITION OF PANDEMIC.—In this section, the
9 term “pandemic” means a public health emergency de-
10 clared under section 319 of the Public Health Service Act
11 (42 U.S.C. 247d) with respect to a pandemic.

12 (b) REPORTING DURING A PANDEMIC.—

13 (1) STANDARDIZED REPORTING.—

14 (A) IN GENERAL.—The Secretary shall es-
15 tablish a standardized process for covered es-
16 tablishments to report, on a weekly basis during
17 a pandemic, to the Secretary information re-
18 garding infections and deaths related to the
19 pandemic. Such information shall include—

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

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

1 (iii) the employment status of such
2 employees.

3 (B) FORM AND PROCEDURES.—

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

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

21 (2) PUBLIC AVAILABILITY.—The Secretary
22 shall make the information reported under para-
23 graph (1) available to the public in a manner that
24 facilitates public participation, including by making

1 such information available on its website in a man-
2 ner that maximizes public participation.

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

9 (c) DISCLOSURES TO EMPLOYEES.—A covered estab-
10 lishment shall disclose to each employee or individual pro-
11 viding work for the employer, including any individual pro-
12 viding such work through a contract or subcontract, all
13 chemicals used at the worksite where the employee or indi-
14 vidual provides such work. Such disclosure shall be pro-
15 vided to the employee or individual in the native language
16 of the employee or individual.

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

18 (a) IN GENERAL.—Any person aggrieved by the fail-
19 ure of a covered establishment to comply with the Occupa-
20 tional Safety and Health Act of 1970 (29 U.S.C. 651 et
21 seq.), including any regulation promulgated pursuant to
22 such Act, or to comply with this subtitle may file suit in
23 any district court of the United States having jurisdiction
24 of the parties, without respect to the amount in con-

1 troversty and without regard to the citizenship of the par-
2 ties, or in any other court of competent jurisdiction.

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

8 (c) ACTION BY THE SECRETARY.—Any administra-
9 tive enforcement by the Secretary shall not preclude the
10 relief afforded by this section or otherwise deprive a court
11 of jurisdiction.

12 **SEC. 131. INJUNCTION PROCEEDINGS.**

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

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

20 (2) in subsection (d), by adding at the end the
21 following: “The right to judicial review provided in
22 this subsection shall extend to, and the district court
23 shall have jurisdiction to adjudicate, any action, in-
24 action, or failure to act by the Secretary with re-
25 spect to an imminent danger regardless of whether

1 the Secretary, an inspector, or any other individual
2 determines the existence or absence of an imminent
3 danger.”.

4 **Subtitle D—Savings Provision**

5 **SEC. 136. SAVINGS PROVISION.**

6 Nothing in title shall be construed to diminish the
7 rights, privileges, or remedies of any employee who exer-
8 cises rights under any Federal or State law or common
9 law, or under any collective bargaining agreement.

10 **TITLE II—FARM SYSTEM** 11 **REFORMS**

12 **SEC. 201. EXPANDED MEAT AND POULTRY PROCESSING** 13 **GRANTS.**

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

16 (1) in subsection (b)—

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

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

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

- 1 “(1) IN GENERAL.—To be eligible”;
- 2 (D) in paragraph (1) (as so designated)—
- 3 (i) in the matter preceding subpara-
- 4 graph (A) (as so redesignated), by striking
- 5 “shall be—” and inserting “shall—”;
- 6 (ii) in subparagraph (A) (as so redes-
- 7 ignated)—
- 8 (I) by inserting “be” before “in
- 9 operation”; and
- 10 (II) by striking “and” at the end;
- 11 (iii) in subparagraph (B) (as so redes-
- 12 ignated)—
- 13 (I) in the matter preceding clause
- 14 (i) (as so redesignated), by striking
- 15 “seeking” and inserting “seek”; and
- 16 (II) in clause (ii) (as so redesign-
- 17 ated), by striking the period at the
- 18 end and inserting “; and”; and
- 19 (iv) by adding at the end the fol-
- 20 lowing:
- 21 “(C) have a labor peace agreement in
- 22 place.”; and
- 23 (E) by adding at the end the following:

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

4 “(A) between an employer and a labor or-
5 ganization that represents, or is actively seeking
6 to represent, the employees of the employer;
7 and

8 “(B) under which such employer and labor
9 organization agree that—

10 “(i) the employer will not—

11 “(I) hinder any effort of an em-
12 ployee 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;

17 “(ii) the labor organization agrees to
18 refrain from picketing, work stoppages, or
19 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

1 employees to discuss joining the labor or-
2 ganization; and

3 “(iv) the employer shall, upon the re-
4 quest of the labor organization, recognize
5 the labor organization as the bargaining
6 representative of the employees if a major-
7 ity of the employees choose the labor orga-
8 nization as their bargaining representa-
9 tive.”;

10 (2) in subsection (d)(2)—

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

14 (B) by redesignating subparagraphs (A)
15 and (B) as clauses (i) and (ii), respectively, and
16 indenting appropriately;

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

20 “(A) shall agree”;

21 (D) in subparagraph (A) (as so des-
22 ignated), in clause (ii) (as so redesignated), by
23 striking the period at the end and inserting “;
24 and”; and

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

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

7 (3) in subsection (f)—

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

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

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

12 “(2) ADDITIONAL FUNDING.—In addition to
13 amounts made available under paragraph (1), of the
14 funds of the Treasury not otherwise appropriated,
15 there is appropriated to carry out this section
16 \$100,000,000 for the period of fiscal years 2023
17 through 2032.”.

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

19 Section 210A(i)(1) of the Agricultural Marketing Act
20 of 1946 (7 U.S.C. 1627c(i)(1)) is amended by striking
21 “fiscal year 2019 and each fiscal year thereafter” and in-
22 serting “each of fiscal years 2019 through 2023, and
23 \$500,000,000 for fiscal year 2024”.

1 **SEC. 203. RESTORATION OF MANDATORY COUNTRY OF ORI-**
2 **GIN LABELING FOR BEEF AND PORK; INCLU-**
3 **SION OF DAIRY PRODUCTS.**

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

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

9 (2) by inserting before paragraph (2) (as so re-
10 designated) the following:

11 “(1) BEEF.—The term ‘beef’ means meat pro-
12 duced from cattle (including veal).”;

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

14 (A) in subparagraph (A)—

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

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

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

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

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

1 (B) in subparagraph (B), by inserting
2 “(other than clause (xii) of that subpara-
3 graph)” after “subparagraph (A)”;

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

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

8 “(A) fluid milk;

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

11 “(C) yogurt;

12 “(D) ice cream;

13 “(E) butter; and

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

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

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

19 (b) NOTICE OF COUNTRY OF ORIGIN.—Section
20 282(a) of the Agricultural Marketing Act of 1946 (7
21 U.S.C. 1638a(a)) is amended by adding at the end the
22 following:

23 “(5) DESIGNATION OF COUNTRY OF ORIGIN
24 FOR DAIRY PRODUCTS.—

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

4 “(i) each country in which or from
5 which the 1 or more dairy ingredients or
6 dairy components of the covered com-
7 modity were produced, originated, or
8 sourced; and

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

11 “(B) STATE, REGION, LOCALITY OF THE
12 UNITED STATES.—With respect to a covered
13 commodity that is a dairy product produced ex-
14 clusively in the United States, designation by a
15 retailer of the State, region, or locality of the
16 United States where the covered commodity
17 was produced shall be sufficient to identify the
18 United States as the country of origin.”.

19 **SEC. 204. DEFINITIONS IN PACKERS AND STOCKYARDS ACT,**
20 **1921.**

21 Section 2(a) of the Packers and Stockyards Act,
22 1921 (7 U.S.C. 182(a)), is amended—

23 (1) in paragraph (8), by striking “for slaugh-
24 ter” and all that follows through “of such poultry”
25 and inserting “under a poultry growing arrange-

1 ment, regardless of whether the poultry is owned by
2 that person or another person”;

3 (2) in paragraph (9), by striking “and cares for
4 live poultry for delivery, in accord with another’s in-
5 structions, for slaughter” and inserting “or cares for
6 live poultry in accordance with the instructions of
7 another person”;

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

11 (4) in paragraph (10)—

12 (A) by striking “for the purpose of either
13 slaughtering it or selling it for slaughter by an-
14 other”; and

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

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

18 “(15) FORMULA PRICE.—

19 “(A) IN GENERAL.—The term ‘formula
20 price’ means any price term that establishes a
21 base from which a purchase price is calculated
22 on the basis of a price that will not be deter-
23 mined or reported until a date that is after the
24 date on which the forward price is established.

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

3 “(i) any price term that establishes a
4 base from which a purchase price is cal-
5 culated on the basis of a futures market
6 price; or

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

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

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

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

22 **SEC. 205. UNLAWFUL PRACTICES.**

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

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

4 (2) by striking the section designation and all
5 that follows through “It shall be” in the matter pre-
6 ceding paragraph (1) (as so redesignated) and in-
7 serting the following:

8 **“SEC. 202. UNLAWFUL ACTS.**

9 “(a) IN GENERAL.—It shall be”;

10 (3) in subsection (a)—

11 (A) in the matter preceding paragraph (1)
12 (as so redesignated), by striking “to:” and in-
13 serting “to do any of the following.”;

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

17 (C) in paragraph (6) (as so redesign-
18 ated)—

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

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

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

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

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

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

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

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

13 “(ii) more than 1 blind bid is solie-
14 ited; and

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

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

18 “(D) provides for the sale of livestock in a
19 quantity in excess of—

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

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

22 and

23 “(iii) in the case of another type of
24 livestock, a comparable quantity of that

1 type of livestock, as determined by the Sec-
2 retary.

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

12 “(A) an arrangement entered into not
13 more than 7 business days before slaughter of
14 the livestock by a packer, a person acting
15 through the packer, or a person that directly or
16 indirectly controls, or is controlled by or under
17 common control with, the packer;

18 “(B) a cooperative or entity owned by a co-
19 operative, if a majority of the ownership inter-
20 est in the cooperative is held by active coopera-
21 tive members that—

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

24 “(ii) provide the livestock to the coop-
25 erative for slaughter;

1 “(C) a packer that is not required to re-
2 port to the Secretary on each reporting day (as
3 defined in section 212 of the Agricultural Mar-
4 keting Act of 1946 (7 U.S.C. 1635a)) informa-
5 tion on the price and quantity of livestock pur-
6 chased by the packer; or

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

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

13 (E) in paragraph (10) (as so redesign-
14 nated), by striking “subdivision (a), (b), (c),
15 (d), or (e)” and inserting “paragraphs (1)
16 through (9)”;

17 (4) by adding at the end the following:

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

22 “(1) Refusal to provide, on the request of a
23 livestock producer, swine production contract grow-
24 er, or poultry grower with which the packer, swine
25 contractor, or live poultry dealer has a marketing or

1 delivery contract, the relevant statistical information
2 and data used to determine the compensation paid
3 to the livestock producer, swine production contract
4 grower, or poultry grower, as applicable, under the
5 contract, including—

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

8 “(B) feed analysis;

9 “(C) breeder history;

10 “(D) quality grade;

11 “(E) yield grade; and

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

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

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

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

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

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

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

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

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

18 “(A) A retaliatory action (including coer-
19 cion or intimidation) or the threat of retaliatory
20 action—

21 “(i) in connection with the execution,
22 termination, extension, or renewal of a
23 contract or agreement with a livestock pro-
24 ducer, swine production contract grower,
25 or poultry grower aimed to discourage the

1 exercise of the rights of the livestock pro-
2 ducer, swine production contract grower,
3 or poultry grower under this Act or any
4 other law; and

5 “(ii) in response to lawful communica-
6 tion (including as described in paragraph
7 (2)), association, or assertion of rights by
8 a livestock producer, swine production con-
9 tract grower, or poultry grower.

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

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

15 “(A) a communication with officials of a
16 Federal agency or Members of Congress;

17 “(B) any lawful disclosure that dem-
18 onstrates a reasonable belief of a violation of
19 this Act or any other law; and

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

22 “(3) USE OF TOURNAMENT SYSTEM FOR POUL-
23 TRY.—

24 “(A) IN GENERAL.—Subject to subpara-
25 graph (B), a live poultry dealer shall be in vio-

1 lation of subsection (a)(2) if the live poultry
2 dealer determines the formula for calculating
3 the pay of a poultry grower in a tournament
4 group by comparing the performance of the
5 birds of other poultry growers in the group
6 using factors outside the control of the poultry
7 grower and within the control of the live poultry
8 dealer.

9 “(B) EXCEPTION.—Under subparagraph
10 (A), a live poultry dealer shall not be found in
11 violation of subsection (a)(2) if the live poultry
12 dealer demonstrates through clear and con-
13 vincing evidence that the inputs and services
14 described in subparagraph (C) that were used
15 in the comparative evaluation were substantially
16 the same in quality, quantity, and timing, as
17 applicable, for all poultry growers in the tour-
18 nament group.

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

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

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

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

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

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

12 “(vi) the timing of the pick-up of
13 birds for processing (including the age of
14 the birds and the number of days that the
15 birds are in the care of the poultry grower)
16 for each poultry grower;

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

20 “(viii) condemnations of parts of birds
21 due to actions in processing for each poul-
22 try grower;

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

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

3 “(xi) the stated reasons for the cause
4 of the death losses and condemnations de-
5 scribed in clauses (vii) through (x);

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

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

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

17 (b) EFFECTIVE DATE.—

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

23 (2) TRANSITION RULES.—In the case of a pack-
24 er that, on the date of enactment of this Act, owns,
25 feeds, or controls livestock intended for slaughter in

1 violation of paragraph (8) of section 202(a) of the
2 Packers and Stockyards Act, 1921 (7 U.S.C. 192)
3 (as designated by subsection (a)(2)), that paragraph
4 shall take effect—

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

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

12 **SEC. 206. SPOT MARKET PURCHASES OF LIVESTOCK BY**
13 **PACKERS.**

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

17 **“SEC. 202A. SPOT MARKET PURCHASES OF LIVESTOCK BY**
18 **PACKERS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) COVERED PACKER.—

21 “(A) IN GENERAL.—The term ‘covered
22 packer’ means a packer that is required under
23 subtitle B of the Agricultural Marketing Act of
24 1946 (7 U.S.C. 1635 et seq.) to report to the
25 Secretary each reporting day information on the

1 price and quantity of livestock purchased by the
2 packer.

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

6 “(2) NONAFFILIATED PRODUCER.—The term
7 ‘nonaffiliated producer’ means a producer of live-
8 stock—

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

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

12 “(C) that has no officers, directors, em-
13 ployees, or owners that are officers, directors,
14 employees, or owners of the packer;

15 “(D) that has no fiduciary responsibility to
16 the packer; and

17 “(E) in which the packer has no equity in-
18 terest.

19 “(3) SPOT MARKET SALE.—

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

23 “(i) under an agreement that specifies
24 a firm base price that may be equated with

1 a fixed dollar amount on the date the
2 agreement is entered into;

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

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

11 “(B) REASONABLE COMPETITIVE BIDDING
12 OPPORTUNITY.—For the purposes of subpara-
13 graph (A)(iii), a reasonable competitive bidding
14 opportunity shall be considered to exist if—

15 “(i) no written or oral agreement pre-
16 cludes the producer from soliciting or re-
17 ceiving bids from other packers; and

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

20 “(I) establishes the existence of
21 an implied contract (as determined in
22 accordance with the Uniform Com-
23 mercial Code); and

1 “(II) precludes the producer from
2 soliciting or receiving bids from other
3 packers.

4 “(b) GENERAL RULE.—Of the quantity of livestock
5 that is slaughtered by a covered packer during each re-
6 porting day in each plant, the covered packer shall slaugh-
7 ter not less than the applicable percentage specified in
8 subsection (c) of the quantity through spot market sales
9 from nonaffiliated producers.

10 “(c) APPLICABLE PERCENTAGES.—

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

14 “(2) EXCEPTIONS.—In the case of a covered
15 packer that reported to the Secretary in the 2018
16 annual report that more than 60 percent of the live-
17 stock of the covered packer were committed procure-
18 ment livestock, the applicable percentage shall be the
19 greater of—

20 “(A) the difference between the percentage
21 of committed procurement so reported and 100
22 percent; and

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

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

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

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

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

12 (a) ADMINISTRATIVE ENFORCEMENT AUTHORITY
13 OVER LIVE POULTRY DEALERS.—Sections 203, 204, and
14 205 of the Packers and Stockyards Act, 1921 (7 U.S.C.
15 193, 194, 195), are amended by inserting “, live poultry
16 dealer,” after “packer” each place it appears.

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

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

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

4 (2) in subsection (b), in the first sentence, by
5 striking “any provisions of section 207 or section
6 410” and inserting “any provision”.

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

8 Section 204 of the Packers and Stockyards Act, 1921
9 (7 U.S.C. 194), is amended by adding at the end the fol-
10 lowing:

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

14 **SEC. 209. TECHNICAL AMENDMENTS.**

15 (a) Section 203 of the Packers and Stockyards Act,
16 1921 (7 U.S.C. 193), is amended—

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

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

20 (B) by striking “his charges” and inserting
21 “the charges”;

22 (2) in subsection (b), in the first sentence, by
23 striking “he shall make a report in writing in which
24 he shall state his findings” and inserting “the Sec-
25 retary shall make a report in writing in which the

1 Secretary shall state the findings of the Secretary”;
2 and

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

5 (b) Section 204 of the Packers and Stockyards Act,
6 1921 (7 U.S.C. 194), is amended—

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

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

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

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

17 (B) by striking “he” and inserting “the
18 Secretary”; and

19 (4) in subsection (g), by striking “his officers,
20 directors, agents, and employees” and inserting “the
21 officers, directors, agents, and employees of the
22 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;

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

3 (D) politics and political lobbying;

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

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

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

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

18 (A) to farmers; and

19 (B) by consumers;

20 (6) Federal support for the corporations that
21 control the largest percentage of the meat and poul-
22 try industry through contracts, procurement, sub-
23 sidies, and other mechanisms;

24 (7) the risk of disruption caused by corporate
25 consolidation among covered establishments, includ-

1 ing an analysis of food supply chain issues resulting
2 from the COVID–19 pandemic; and

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

6 **SEC. 302. REVIEW AND REPORT ON RACIAL AND ETHNIC**
7 **DISPARITIES IN MEAT AND POULTRY PROC-**
8 **ESSING.**

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

15 (1) The impacts of working in covered estab-
16 lishments to individuals working at such establish-
17 ments who are employees, temporary workers, incar-
18 cerated workers, noncitizen workers admitted to the
19 United States as nonimmigrants described in section
20 101(a)(15)(H)(ii)(b) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) or as ref-
22 ugees under section 207 of that Act (8 U.S.C.
23 1157), or noncitizen workers who are not lawfully
24 present in the United States. Such review shall in-
25 clude a review of—

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

3 (B) psychological and mental health condi-
4 tions of such individuals;

5 (C) exposure of such individuals to chemi-
6 cals or other potential carcinogens and repro-
7 ductive toxins;

8 (D) any physical or mental abuse, includ-
9 ing sexual harassment, of such individuals by
10 co-workers or managers;

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

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

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

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

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

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

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

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

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

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

21 (A) the extent to which predatory prac-
22 tices, such as limiting the ability of such work-
23 ers to choose and move between competing or-
24 ganizations, are utilized by covered establish-
25 ments with respect to such workers;

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

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

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

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

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

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

16 (a) IN GENERAL.—Not later than 90 days after the
17 end of the covered period, the Comptroller General of the
18 United States shall carry out, and submit to Congress a
19 report containing, a review of the actions taken by the Sec-
20 retary, the Secretary of Labor, and the Secretary of
21 Health and Human Services in response to the COVID–
22 19 pandemic to determine the effectiveness of those ac-
23 tions in protecting animal, food, and worker safety.

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

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

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

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

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

21 (A) bonus or work incentive programs; and

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

24 (5) the extent to which those establishments
25 provide communications and training about COVID–

1 19 in a language and at a literacy level workers un-
2 derstand;

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

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

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

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

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

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

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

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

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

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

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