

118TH CONGRESS  
1ST SESSION

# S. 2601

To provide for the protection of agricultural workers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mr. WELCH (for himself, Mr. BOOKER, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide for the protection of agricultural 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.**

4 This Act may be cited as the “Agricultural Worker  
5 Justice Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

### TITLE I—FAIR USDA PROCUREMENT AND CONTRACTING

Sec. 101. Definitions.

Sec. 102. Food worker pay increase.

- Sec. 103. Prohibition on stock buybacks while receiving USDA funds.
- Sec. 104. Promotion of economic security and workplace accountability.
- Sec. 105. Waiver to purchase foreign commodities or products.
- Sec. 106. Authorization of local food purchase assistance cooperative agreement program.
- Sec. 107. Report regarding grant recipients.

## TITLE II—PROTECTING AMERICA’S MEATPACKING WORKERS

- Sec. 201. Findings.
- Sec. 202. Definitions.

### Subtitle A—Reforms to Protect Meat and Poultry Processing Workers

#### PART I—DEPARTMENT OF AGRICULTURE

- Sec. 211. Rule on increased line speeds at meat and poultry establishments.

#### PART II—FAIR ATTENDANCE POLICIES

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#### PART III—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION REFORMS

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- Sec. 233. Occupational safety and health standards to protect employees in covered establishments.
- Sec. 234. Permanent regional emphasis inspection program; expanding inspections.
- Sec. 235. Representatives during physical inspections.
- Sec. 236. Enhanced protections from retaliation.
- Sec. 237. Regulations to restore a column on required records of work-related musculoskeletal disorders.
- Sec. 238. Funding for additional OSHA inspectors.
- Sec. 239. OSHA reporting.
- Sec. 240. Private right of action.
- Sec. 241. Injunction proceedings.

#### PART IV—SAVINGS PROVISION

- Sec. 251. Savings provision.

### Subtitle B—GAO Reports

- Sec. 261. Review and report on racial and ethnic disparities in meat and poultry processing.

1 **TITLE I—FAIR USDA PROCURE-**  
2 **MENT AND CONTRACTING**

3 **SEC. 101. DEFINITIONS.**

4 In this title:

5 (1) MEAT.—The term “meat” means meat  
6 (within the meaning of the Federal Meat Inspection  
7 Act (21 U.S.C. 601 et seq.).

8 (2) MEAT FOOD PRODUCT.—The term “meat  
9 food product” has the meaning given the term in  
10 section 1 of the Federal Meat Inspection Act (21  
11 U.S.C. 601).

12 (3) POULTRY; POULTRY PRODUCT.—The terms  
13 “poultry” and “poultry product” have the meanings  
14 given those terms in section 4 of the Poultry Prod-  
15 ucts Inspection Act (21 U.S.C. 453).

16 (4) PROCESSED FOOD.—The term “processed  
17 food” has the meaning given the term in section 201  
18 of the Federal Food, Drug, and Cosmetic Act (21  
19 U.S.C. 321).

20 **SEC. 102. FOOD WORKER PAY INCREASE.**

21 (a) PREVAILING RATE.—The Secretary of Agri-  
22 culture may not purchase any meat, meat food product,  
23 poultry, poultry product, or processed food produced by  
24 workers in the United States who are compensated at a

1 rate lower than the prevailing rate for wages and fringe  
2 benefits for such workers in their locality.

3 (b) PREVAILING RATE DETERMINATION.—The Sec-  
4 retary of Labor shall determine the prevailing rates de-  
5 scribed in subsection (a) and, in determining such rates,  
6 shall take into account any applicable existing collective  
7 bargaining agreements in the locality.

8 (c) COLLECTIVE BARGAINING AGREEMENT SUPREM-  
9 ACY.—A prevailing rate established pursuant to this sec-  
10 tion shall not supersede the wages and benefits of a worker  
11 agreed to in a collective bargaining agreement.

12 **SEC. 103. PROHIBITION ON STOCK BUYBACKS WHILE RE-**  
13 **CEIVING USDA FUNDS.**

14 (a) DEFINITIONS.—In this section:

15 (1) EQUITY SECURITY; EXCHANGE; ISSUER.—  
16 The terms “equity security”, “exchange”, and  
17 “issuer” have the meanings given the terms in sec-  
18 tion 3 of the Securities Exchange Act of 1934 (15  
19 U.S.C. 78e).

20 (2) NATIONAL SECURITY EXCHANGE.—The  
21 term “national securities exchange” means an ex-  
22 change registered under section 6 of the Securities  
23 Exchange Act of 1934 (15 U.S.C. 78f).

24 (b) PROHIBITIONS.—Notwithstanding any other pro-  
25 vision of law, during any period that an agricultural issuer



1           (2) The Occupational Safety and Health Act of  
2           1970 (29 U.S.C. 651 et seq.).

3           (3) The National Labor Relations Act (29  
4           U.S.C. 151 et seq.).

5           (4) Subchapter IV of chapter 31 of title 40,  
6           United States Code (commonly known as the  
7           “Davis-Bacon Act”).

8           (5) Chapter 67 of title 41, United States Code  
9           (commonly known as the “Service Contract Act”).

10          (6) Executive Order 11246 (42 U.S.C. 2000e  
11          note; relating to equal employment opportunity).

12          (7) Section 503 of the Rehabilitation Act of  
13          1973 (29 U.S.C. 793).

14          (8) Section 4212 of title 38, United States  
15          Code.

16          (9) The Family and Medical Leave Act of 1993  
17          (29 U.S.C. 2601 et seq.).

18          (10) Title VII of the Civil Rights Act of 1964  
19          (42 U.S.C. 2000e et seq.).

20          (11) Title I of the Americans with Disabilities  
21          Act of 1990 (42 U.S.C. 12111 et seq.).

22          (12) The Age Discrimination in Employment  
23          Act of 1967 (29 U.S.C. 621 et seq.).

1           (13) Executive Order 13658 (79 Fed. Reg.  
2           9851; relating to establishing a minimum wage for  
3           contractors).

4           (14) The Railway Labor Act (45 U.S.C. 151 et  
5           seq.).

6           (15) The Pregnant Workers Fairness Act (divi-  
7           sion II of the Consolidated Appropriations Act, 2023  
8           (Public Law 117–328)).

9           (16) Section 4714 of title 41, United States  
10          Code.

11          (17) Part 170 of title 40, Code of Federal Reg-  
12          ulations (regarding the Worker Protection Stand-  
13          ard).

14          (18) Section 218 of the Immigration and Na-  
15          tionality Act (8 U.S.C. 1188) relating to protections  
16          for H–2A workers.

17          (19) Section 274B of such Act (8 U.S.C.  
18          1324b).

19          (20) Migrant and Seasonal Agricultural Worker  
20          Protection Act (29 U.S.C. 1801 et seq.).

21          (21) Any applicable State or local labor or em-  
22          ployment law, as defined in regulations issued by the  
23          Secretary of Labor.

24          (b) CONSULTATION.—The Secretary of Labor shall  
25          be available, as appropriate and in coordination as de-

1 scribed in subsection (e), for consultation with an entity  
2 described in subsection (a) to assist the entity in evalu-  
3 ating the information on labor compliance submitted to  
4 the entity by a subcontractor pursuant to such subsection.

5 (c) CORRECTIVE MEASURES.—On an annual basis,  
6 the Secretary of Labor—

7 (1) shall provide an entity that makes a disclo-  
8 sure pursuant to subsection (a) an opportunity to re-  
9 port any steps taken by the entity, or any subcon-  
10 tractor of the entity, to correct violations of or im-  
11 prove compliance with the laws, including Executive  
12 orders, listed in such subsection, including any  
13 agreements entered into with an enforcement agen-  
14 cy; and

15 (2) may negotiate with such entity corrective  
16 measures that the entity or any subcontractor of the  
17 entity may take in order to avoid having the entity  
18 placed on the list under subsection (d).

19 (d) LIST OF INELIGIBLE ENTITIES.—

20 (1) IN GENERAL.—For each calendar year be-  
21 ginning with the first calendar year that begins after  
22 the date that is 2 years after the date of enactment  
23 of this Act, the Secretary of Labor, in coordination  
24 as described in subsection (e), shall prepare, and  
25 submit to the Secretary of Agriculture, a list of each



1 entity that shall be ineligible for a contract with the  
2 Department of Agriculture for that year based on—

3 (A) serious, repeated, or pervasive viola-  
4 tions of the laws, including Executive orders,  
5 listed under subsection (a) committed by the  
6 entity or any subcontractor of the entity; or

7 (B) the failure of such entity, or any sub-  
8 contractor of such entity, to complete any cor-  
9 rective measure negotiated under subsection (c).

10 (2) INELIGIBILITY.—The Secretary of Agri-  
11 culture shall not—

12 (A) solicit a contract from any entity on  
13 the list under paragraph (1) that is in effect for  
14 a year for that year or any of the subsequent  
15 4 years; and

16 (B) conduct an inspection pursuant to the  
17 Federal Meat Inspection Act (21 U.S.C. 601 et  
18 seq.) or the Poultry Products Inspection Act  
19 (21 U.S.C. 451 et seq.), as applicable, of any  
20 facility owned or controlled by an entity on the  
21 list under paragraph (1) that is in effect for a  
22 year for that year or for any of the subsequent  
23 4 years.

24 (e) COORDINATION.—In providing the consultation  
25 described in subsection (b) and preparing the list under

1 subsection (d), the Secretary of Labor shall coordinate,  
2 as appropriate, with the National Labor Relations Board,  
3 the Equal Employment Opportunity Commission, the En-  
4 vironmental Protection Agency, and any other relevant  
5 Federal agency as well as States, and local governments.

6 (f) CRIMINAL PENALTY FOR FAILURE TO REPORT.—

7 (1) OFFENSE.—It shall be unlawful for an enti-  
8 ty to knowingly fail to make a disclosure required  
9 under subsection (a).

10 (2) PENALTY.—

11 (A) IN GENERAL.—A violation of para-  
12 graph (1) shall be treated as a violation of sec-  
13 tion 1031(a) of title 18, United States Code.

14 (B) GROSS LOSS TO GOVERNMENT; GROSS  
15 GAIN TO DEFENDANT.—For purposes of apply-  
16 ing section 1031 of title 18, United States  
17 Code, to a violation of paragraph (1) of this  
18 subsection, the amount that the Department of  
19 Agriculture pays an entity that violates such  
20 paragraph (1) under a contract described in  
21 subsection (a) of this section shall be treated as  
22 the gross loss to the Government or the gross  
23 gain to the defendant.

24 (g) ANNUAL REPORTS TO CONGRESS.—For each cal-  
25 endar year beginning with the first calendar year that be-

1 gins after the date that is 2 years after the date of enact-  
 2 ment of this Act, the Secretary of Agriculture shall submit  
 3 a report to the Committee on Agriculture, Nutrition, and  
 4 Forestry of the Senate and the Committee on Agriculture  
 5 of the House of Representatives that includes—

6 (1) the number of entities on the list under sub-  
 7 section (d) for the year of the report;

8 (2) the number of entities that agreed to take  
 9 corrective measures under subsection (c) for such  
 10 year;

11 (3) the amount of the applicable contracts for  
 12 the entities described in paragraph (1) or (2); and

13 (4) performance indicators and measures, as  
 14 determined by the Secretary of Agriculture, assess-  
 15 ing the effectiveness of the implementation by the  
 16 Secretary of Agriculture of this section for such  
 17 year.

18 **SEC. 105. WAIVER TO PURCHASE FOREIGN COMMODITIES**

19 **OR PRODUCTS.**

20 (a) IN GENERAL.—Section 12(n)(2) of the Richard  
 21 B. Russell National School Lunch Act (42 U.S.C.  
 22 1760(n)(2)) is amended—

23 (1) in subparagraph (A), by striking “subpara-  
 24 graph (B)” and inserting “subparagraphs (B) and  
 25 (C)”;

1           (2) in subparagraph (B)(ii), by striking “for the  
2 school lunch program under this Act or the school  
3 breakfast program under section 4 of the Child Nu-  
4 trition Act of 1966 (42 U.S.C. 1773).” and inserting  
5 the following: “for—

6                   “(I) the school lunch program  
7 under this Act, including any snacks  
8 served under that program;

9                   “(II) the special milk program  
10 under section 3 of the Child Nutrition  
11 Act of 1966 (42 U.S.C. 1772); or

12                   “(III) the school breakfast pro-  
13 gram under section 4 of the Child Nu-  
14 trition Act of 1966 (42 U.S.C.  
15 1773).”; and

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

17                   “(C) WAIVER.—

18                   “(i) WAIVER REQUEST.—Except as  
19 provided in clause (ii), in order to purchase  
20 foreign commodities or products, a school  
21 food authority shall request from the Sec-  
22 retary a waiver of subparagraph (A).

23                   “(ii) EXCEPTION.—A school food au-  
24 thority may purchase foreign commodities  
25 or products without a waiver under clause

1 (i) if the commodities or products are  
2 not—

3 “(I) produced domestically; or

4 “(II) available domestically.

5 “(iii) REQUIREMENTS.—The Sec-  
6 retary may not provide a waiver to pur-  
7 chase foreign commodities or products  
8 under clause (i) unless—

9 “(I) the commodities or prod-  
10 ucts—

11 “(aa) are not produced do-  
12 mestically in sufficient amounts  
13 or of satisfactory quality; and

14 “(bb) if purchased domesti-  
15 cally, would be significantly high-  
16 er in price than such foreign  
17 commodities or products; and

18 “(II) the school enters into an  
19 agreement under clause (iv).

20 “(iv) AGREEMENT.—The Secretary  
21 may not provide a waiver under clause (i)  
22 unless the school food authority requesting  
23 the waiver agrees—

24 “(I) not later than 30 days after  
25 receiving the waiver, to make the

1 waiver publicly available on the  
 2 website of the school food authority;  
 3 and

4 “(II) not less than once each  
 5 school year, to email a notification of  
 6 all waivers to parents or guardians of  
 7 students who will be served the for-  
 8 eign commodity or product purchased  
 9 pursuant to any waivers.”.

10 (b) DEFINITION OF FOREIGN COMMODITY.—Section  
 11 12(n) of the Richard B. Russell National School Lunch  
 12 Act (42 U.S.C. 1760(n)) is amended by striking para-  
 13 graph (1) and inserting the following:

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

15 “(A) DOMESTIC COMMODITY OR PROD-  
 16 UCT.—The term ‘domestic commodity or prod-  
 17 uct’ means—

18 “(i) an agricultural commodity that is  
 19 produced in the United States; and

20 “(ii) a food product that is processed  
 21 in the United States substantially using  
 22 agricultural commodities that are produced  
 23 in the United States.

24 “(B) FOREIGN COMMODITY OR PROD-  
 25 UCT.—The term ‘foreign commodity or product’

1 means a commodity or product other than a do-  
2 mestic commodity or product.”.

3 (c) CONFORMING AMENDMENTS.—Section 12(n) of  
4 the Richard B. Russell National School Lunch Act (42  
5 U.S.C. 1760(n)) is amended—

6 (1) in paragraph (3), by striking “Paragraph  
7 (2)(A)” and inserting “Subparagraphs (A) and (C)  
8 of paragraph (2)”; and

9 (2) in paragraph (4), by striking “Paragraph  
10 (2)(A)” and inserting “Subparagraphs (A) and (C)  
11 of paragraph (2)”.

12 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
13 tion or the amendments made by this section affects the  
14 requirements under section 4207 of the Agriculture Im-  
15 provement Act of 2018 (42 U.S.C. 1760 note; Public Law  
16 115–334).

17 **SEC. 106. AUTHORIZATION OF LOCAL FOOD PURCHASE AS-**  
18 **SISTANCE COOPERATIVE AGREEMENT PRO-**  
19 **GRAM.**

20 There is authorized to be appropriated to carry out  
21 the local food purchase assistance cooperative agreement  
22 program established pursuant to section 1001 of the  
23 American Rescue Plan Act of 2021 (7 U.S.C. 7501 note;  
24 Public Law 117–2) \$400,000,000 for fiscal year 2024 and  
25 each fiscal year thereafter.

1 **SEC. 107. REPORT REGARDING GRANT RECIPIENTS.**

2 Not later than 180 days after the date of enactment  
3 of this Act and annually thereafter, the Secretary of Agri-  
4 culture shall submit to Congress and make publicly avail-  
5 able on the website of the Department of Agriculture an  
6 easily-navigable report that, with respect to the preceding  
7 year, specifies each organization, farm, individual, or other  
8 entity that received funding (including through a contract,  
9 subcontract, subsidy, loan, or grant) from the Secretary  
10 of Agriculture during that year.

11 **TITLE II—PROTECTING AMER-**  
12 **ICA’S MEATPACKING WORK-**  
13 **ERS**

14 **SEC. 201. FINDINGS.**

15 Congress finds that—

16 (1) meat and poultry slaughter and processing  
17 is a particularly dangerous occupation, with meat  
18 and poultry processing workers suffering injuries at  
19 measurably higher rates than workers in other pri-  
20 vate sector industries;

21 (2) meat and poultry processing workers face  
22 double the rate of amputations as the average work-  
23 er in private industry, and injuries such as sprains,  
24 lacerations, and contusions are common among poul-  
25 try workers;



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

7           (4) higher line speeds in meat and poultry proc-  
8 essing facilities is a recognized risk factor that leads  
9 to increased risk of both laceration and musculo-  
10 skeletal injuries; and

11           (5) meat and poultry processing workers are  
12 subjected to exploitative conditions and abusive be-  
13 havior by employers—

14                   (A) including—

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

19                           (ii) use of sexualized language to har-  
20 ass women workers to work “harder” and  
21 “faster”;

22                           (iii) patterns of direct sexual harass-  
23 ment and incidents of sexual assault; and

1 (iv) little or no accountability or re-  
 2 dress for emotional, sexualized, or psycho-  
 3 logical abuse due to—

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

7 (II) meat and poultry processing  
 8 workers not reporting the abuse due  
 9 to fear of receiving more abuse, hav-  
 10 ing their employment terminated, or  
 11 being reported to immigration en-  
 12 forcement; and

13 (B) that lead to long-term psychological  
 14 impacts, including increased feelings of anger  
 15 and stress by workers pressured to work faster  
 16 and more aggressively to slaughter animals on  
 17 killing lines.

18 **SEC. 202. DEFINITIONS.**

19 In this title:

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

22 (A) an official establishment (as defined in  
 23 section 301.2 of title 9, Code of Federal Regu-  
 24 lations (or successor regulations)) that is sub-

1           ject to inspection under the Federal Meat In-  
2           spection Act (21 U.S.C. 601 et seq.); and

3                   (B) an official establishment (as defined in  
4           section 381.1(b) of title 9, Code of Federal  
5           Regulations (or successor regulations)) that is  
6           subject to inspection under the Poultry Prod-  
7           ucts Inspection Act (21 U.S.C. 451 et seq.).

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

13 **Subtitle A—Reforms to Protect**  
14 **Meat and Poultry Processing**  
15 **Workers**

16 **PART I—DEPARTMENT OF AGRICULTURE**

17 **SEC. 211. RULE ON INCREASED LINE SPEEDS AT MEAT AND**  
18 **POULTRY ESTABLISHMENTS.**

19          (a) DEFINITIONS.—In this section:

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

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

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

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

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

8 (b) RULE ON WAIVERS.—

9           (1) IN GENERAL.—Notwithstanding any other  
10 provision of law (including regulations, including  
11 sections 303.1(h) and 381.3(b) of title 9, Code of  
12 Federal Regulations (or successor regulations)), the  
13 Secretary, acting through the Administrator, shall  
14 not issue a waiver under those regulations relating  
15 to line speeds that would result in higher line speeds  
16 at a covered establishment or inspection staffing re-  
17 quirements for a covered establishment unless the  
18 covered establishment—

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

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

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

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

8           (i) per minute; and

9           (ii) per hour;

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

13          (C) a review of current efforts at the cov-  
14 ered establishment to mitigate the disorders re-  
15 ferred to in subparagraph (B), including a re-  
16 view of how medical personnel at the covered  
17 establishment manage those disorders; and

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

23          (3) LIMITATION ON AUTHORITY OVER LINE  
24 SPEEDS.—None of the funds made available to the  
25 Secretary on or after the date of enactment of this

1 Act may be used to develop, propose, finalize, issue,  
2 amend, or implement any policy, regulation, direc-  
3 tive, constituent update, or any other agency pro-  
4 gram that would increase line speeds at covered es-  
5 tablishments.

6 (4) EFFECT ON STATE LAW.—

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

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

14 (ii) creates penalties for conduct regu-  
15 lated by this subsection.

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

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

24 (1) the data quality guidelines of the Service,  
25 which state that the Service and the offices of the

1 Service are held to a standard of transparency to en-  
2 sure that the information shared by the Service is  
3 presented in an accurate, reliable, and unbiased  
4 manner; and

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

11 (d) EVALUATION OF RULEMAKING AND POLICIES.—  
12 In evaluating the impact of any rulemaking or policy, the  
13 Secretary shall request that the Director conduct an eval-  
14 uation of the rulemaking or policy that includes a review  
15 of—

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

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

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

24 (e) REPORT ON IMPLEMENTATION OF RULES.—

1           (1) IN GENERAL.—Not later than 1 year after  
2 the implementation of any rule relating to line  
3 speeds at covered establishments, the Secretary shall  
4 submit to Congress a report on the impact of the  
5 rule on—

6                   (A) line speeds at covered establishments;

7                   (B) worker safety and health at covered es-  
8 tablishments;

9                   (C) ergonomic aspects of jobs at covered  
10 establishments; and

11                   (D) staffing levels that will ensure worker  
12 safety at covered establishments.

13           (2) REQUIREMENT.—A report under paragraph  
14 (1) shall include—

15                   (A) the results of a study carried out by an  
16 industrial engineer on every type of job at cov-  
17 ered establishments impacted by the applicable  
18 rule;

19                   (B) a determination of the industrial engi-  
20 neer of the number of workers needed—

21                           (i) to do each job safely; and

22                           (ii) to operate the covered establish-  
23 ment at different line speeds; and

24                   (C) a job crewing report prepared by the  
25 industrial engineer.



1           **PART II—FAIR ATTENDANCE POLICIES**

2   **SEC. 221. DEFINITIONS.**

3           In this part:

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

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

9           (B) includes—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 **SEC. 222. REQUIREMENTS FOR EMPLOYERS RELATING TO**  
15 **NO FAULT ATTENDANCE POLICIES OR AT-**  
16 **TENDANCE SYSTEMS.**

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

22 (1) The no fault attendance policy shall be dis-  
23 tributed in writing (and be made available in the pri-  
24 mary language of such employee)—

1 (A) not later than 90 days after the date  
2 of enactment of this Act, to each employee em-  
3 ployed by the covered entity as of that date of  
4 distribution; and

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

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

13 (3) The covered entity shall provide employees  
14 with a means of accessing the no fault attendance  
15 policy at any physical workplace, and outside of a  
16 physical workplace, in an accessible location.

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

22 (5) The no fault attendance policy shall specifi-  
23 cally reference and provide a reasonable amount of  
24 detail about all Federal, State, and local laws appli-  
25 cable to the employees that provide legally protected

1 leave, including the Americans with Disabilities Act  
2 of 1990 (42 U.S.C. 12101 et seq.), the Family and  
3 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.),  
4 and chapter 43 of title 38, United States Code.

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

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

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

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

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

22 (b) REQUIREMENTS FOR ATTENDANCE SYSTEMS.—

23 It shall be an unlawful employment practice for a covered  
24 entity to maintain any attendance system policy, or pat-  
25 tern and practice, that discourages employees from exer-

1 cising, or attempting to exercise, any right to legally pro-  
2 tected leave.

3 **SEC. 223. REMEDIES AND ENFORCEMENT.**

4 (a) CIVIL ACTION.—The powers, remedies, and pro-  
5 cedures provided in section 107 of the Family and Medical  
6 Leave Act of 1993 (29 U.S.C. 2617) shall be the powers,  
7 remedies, and procedures this part provides to any person  
8 alleging an unlawful employment practice described in sec-  
9 tion 222.

10 (b) PENALTIES.—Any covered entity that commits an  
11 unlawful employment practice described in section 222  
12 shall be subject to a civil penalty not to exceed the  
13 amounts under section 17(a) of the Occupational Safety  
14 and Health Act of 1970 (29 U.S.C. 666(a)), as adjusted  
15 annually for inflation. The Secretary may bring any legal  
16 action necessary, including administrative action, to collect  
17 such penalties.

18 **SEC. 224. RULEMAKING.**

19 Not later than 2 years after the date of enactment  
20 of this Act, the Secretary, in coordination with the Equal  
21 Employment Opportunity Commission and the heads of  
22 other relevant Federal agencies, shall issue regulations in  
23 an accessible format in accordance with subchapter II of  
24 chapter 5 of title 5, United States Code, to carry out this  
25 part. Such regulations shall provide an example of a model

1 no fault attendance policy that conforms to the require-  
2 ments of this part.

3 **SEC. 225. RELATIONSHIP TO OTHER LAWS.**

4 Nothing in this part shall be construed to invalidate  
5 or limit the powers, remedies, and procedures under any  
6 Federal law or law of any State or political subdivision  
7 of any State or jurisdiction that provide legally protected  
8 leave.

9 **PART III—OCCUPATIONAL SAFETY AND HEALTH**  
10 **ADMINISTRATION REFORMS**

11 **SEC. 231. DEFINITIONS.**

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

15 **SEC. 232. ENSURING COMPLIANCE WITH EMPLOYEE**  
16 **RIGHTS TO USE TOILET FACILITIES AT COV-**  
17 **ERED ESTABLISHMENTS.**

18 (a) IN GENERAL.—During any inspection of a cov-  
19 ered establishment conducted pursuant to section 8 of the  
20 Occupational Safety and Health Act of 1970 (29 U.S.C.  
21 657), the Secretary shall verify that the employer of em-  
22 ployees working at such establishment is in compliance  
23 with the occupational safety and health standard set forth  
24 in section 1910.141 of title 29, Code of Federal Regula-  
25 tions, as in effect on the day before the date of enactment

1 of this Act, for employers to provide prompt access for  
2 employees to visit and use toilet facilities, including such  
3 standard as interpreted by the memorandum for regional  
4 administrators and State designees regarding “Interpreta-  
5 tion of 29 CFR. 1910.141(c)(1)(i): Toilet Facilities”  
6 issued by the Occupational Safety and Health Administra-  
7 tion on April 6, 1998, and any successor regulation.

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

11 (1) allows employees to leave their work loca-  
12 tions to use a toilet facility when needed and without  
13 punishment;

14 (2) provides an adequate number of toilet facili-  
15 ties for the size of the workforce to prevent long  
16 lines;

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

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

23 (5) compensates each employee for breaks for  
24 using toilet facilities at the regular rate of pay of the  
25 employee in accordance with section 785.18 of title



1       29, Code of Federal Regulations, as in effect on the  
2       day before the date of enactment of this Act, and  
3       any other applicable Federal, State, or local law.

4 **SEC. 233. OCCUPATIONAL SAFETY AND HEALTH STAND-**  
5                   **ARDS TO PROTECT EMPLOYEES IN COVERED**  
6                   **ESTABLISHMENTS.**

7       (a) STANDARD FOR PROTECTING EMPLOYEES FROM  
8 OCCUPATIONAL RISK FACTORS CAUSING MUSCULO-  
9 SKELETAL DISORDERS.—

10           (1) PROPOSED STANDARD.—Not later than 1  
11       year after the date of enactment of this Act, the  
12       Secretary 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 proposed  
15       standard for ergonomic program management for  
16       covered establishments. Such proposed standard  
17       shall include requirements for—

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

22           (B) hazard control, which such require-  
23       ments rely on the principles of the hierarchy of  
24       controls and which may include measures such  
25       as rest breaks, equipment and workstation rede-

1 sign, work pace reductions, or job rotation to  
2 less forceful or repetitive jobs;

3 (C) training for employees regarding em-  
4 ployer activities, occupational risk factors, and  
5 training on controls and recognition of symp-  
6 toms of musculoskeletal disorders; and

7 (D) medical management that includes—

8 (i) encouraging early reporting of  
9 musculoskeletal disorder symptoms;

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

12 and

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

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

22 (b) STANDARD FOR PROTECTING EMPLOYEES FROM  
23 DELAYS IN MEDICAL TREATMENT REFERRALS FOL-  
24 LOWING INJURIES OR ILLNESSES.—

1           (1) PROPOSED STANDARD.—Not later than 3  
2 months after the date of enactment of this Act, the  
3 Secretary shall, pursuant to section 6 of the Occupa-  
4 tional Safety and Health Act of 1970 (29 U.S.C.  
5 655), publish in the Federal Register a proposed  
6 standard requiring that all employers with employees  
7 working at a covered establishment who, in accord-  
8 ance with the standard promulgated under section  
9 1910.151 of title 29, Code of Federal Regulations,  
10 as in effect on the day before the date of enactment  
11 of this Act, are required to have a person readily  
12 available at the establishment who is adequately  
13 trained to render first aid shall ensure that such  
14 person—

15           (A) without delay, refers any such em-  
16 ployee who reports an injury or illness that re-  
17 quires further medical treatment to an appro-  
18 priate medical professional of the employee’s  
19 choice for such treatment;

20           (B) provides for occupational medicine con-  
21 sultation services through a physician who is  
22 board certified in occupational medicine, which  
23 services shall include—

24           (i) regular review of any health and  
25 safety program, medical management pro-

1                   gram, or ergonomics program of the em-  
2                   ployer;

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

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

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

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

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

21                  (c) AUTHORIZATION OF APPROPRIATIONS.—There  
22                  are authorized to be appropriated \$2,000,000 for fiscal  
23                  year 2024 to carry out this section.

1 **SEC. 234. PERMANENT REGIONAL EMPHASIS INSPECTION**  
2 **PROGRAM; EXPANDING INSPECTIONS.**

3 (a) REGIONAL EMPHASIS INSPECTION PROGRAM.—

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

12 (A) amputation hazards;

13 (B) ergonomics;

14 (C) hazards related to line speeds;

15 (D) bathroom breaks;

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

18 (F) working conditions in high and low  
19 temperatures.

20 (2) STATE PLANS.—Not later than 30 days  
21 after the date of enactment of this Act, a State with  
22 a State plan that has been approved by the Sec-  
23 retary under section 18 of such Act (29 U.S.C. 667)  
24 shall adopt in each region within the State in which  
25 a covered establishment is located a regional empha-

1       sis inspection program that is at least as effective as  
2       the program under paragraph (1).

3       (b) EXPANDING INSPECTIONS WHEN INFORMATION  
4 PRESENTS POSSIBLE ADDITIONAL DANGERS.—

5           (1) IN GENERAL.—If the Secretary conducts a  
6       physical inspection of a covered establishment pursu-  
7       ant to section 8 of such Act in response to a refer-  
8       ral, complaint, or fatality, and the Secretary, during  
9       such inspection makes a determination described in  
10      paragraph (2), the Secretary shall expand such in-  
11      spection to all areas of the establishment.

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

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

20           (B) A determination, upon interviews with  
21           employees, that a workplace danger may threat-  
22           en physical harm.

1 **SEC. 235. REPRESENTATIVES DURING PHYSICAL INSPEC-**  
2 **TIONS.**

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

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

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

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

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

1 **SEC. 236. ENHANCED PROTECTIONS FROM RETALIATION.**

2 (a) EMPLOYEE ACTIONS.—Section 11(c)(1) of the  
3 Occupational Safety and Health Act of 1970 (29 U.S.C.  
4 660(c)(1)) is amended—

5 (1) by striking “discharge” and all that follows  
6 through “because such” and inserting the following:  
7 “discharge or cause to be discharged, or in any  
8 other manner retaliate or discriminate against or  
9 cause to be retaliated or discriminated against, any  
10 employee because—

11 “(A) such”;

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

14 “(B) such employee has”;

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

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

21 “(D) of the exercise”; and

22 (4) by inserting before the period at the end the  
23 following: “, including the reporting of any injury,  
24 illness, or unsafe condition to the employer, agent of  
25 the employer, safety and health committee involved,



1 or employee safety and health representative in-  
2 volved”.

3 (b) PROHIBITION OF RETALIATION; PROCEDURE.—

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

5 (1) in subsection (c)—

6 (A) in paragraph (2)—

7 (i) by striking “discharged or other-  
8 wise discriminated against by any person  
9 in violation of this subsection” and insert-  
10 ing “aggrieved by a violation of this sub-  
11 section”; and

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

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

15 “(4) EXCEPTION FOR MEAT AND POULTRY ES-  
16 TABLISHMENTS.—Paragraphs (2) and (3) shall not  
17 apply with respect to a complaint filed by an em-  
18 ployee of an employer that is a covered establish-  
19 ment, as defined in section 202 of the Agricultural  
20 Worker Justice Act.”; and

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

22 “(d) MEAT AND POULTRY ESTABLISHMENTS.—

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

1           “(A) COMPLAINANT.—The term ‘complain-  
2           ant’ means a complainant who is a covered em-  
3           ployee.

4           “(B) COVERED EMPLOYEE.—The term  
5           ‘covered employee’ means an employee of a cov-  
6           ered employer.

7           “(C) COVERED EMPLOYER.—The term  
8           ‘covered employer’ means an employer that is a  
9           covered establishment, as defined in section 202  
10          of the Agricultural Worker Justice Act.

11          “(D) RESPONDENT.—The term ‘respond-  
12          ent’ means a respondent who is a covered em-  
13          ployer.

14          “(2) REASONABLE APPREHENSION.—No person  
15          shall discharge, or cause to be discharged, or in any  
16          other manner retaliate or discriminate against, or  
17          cause to be retaliated or discriminated against, a  
18          covered employee for refusing to perform the covered  
19          employee’s duties if—

20                 “(A) the covered employee has a reason-  
21                 able apprehension that performing such duties  
22                 would result in serious injury to, or serious im-  
23                 pairment of the health of, the covered employee  
24                 or other covered employees; and

1           “(B) when practicable, the covered em-  
2           ployee has communicated or attempted to com-  
3           municate such reasonable apprehension to the  
4           covered employer and has not received from the  
5           covered employer a response reasonably cal-  
6           culated to allay such apprehension.

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

14          “(4) STATUTE OF LIMITATIONS.—

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

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

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

24                 “(B) REPEAT VIOLATION.—Except in  
25                 cases when the covered employee has been dis-

1 charged, a violation of subsection (c)(1) or  
2 paragraph (2) of this subsection shall be consid-  
3 ered to have occurred on the last date an al-  
4 leged repeat violation occurred.

5 “(5) INVESTIGATION.—

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

14 “(i) shall include—

15 “(I) interviewing the complain-  
16 ant;

17 “(II) providing the respondent an  
18 opportunity to—

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

22 “(bb) meet with the Sec-  
23 retary to present statements from  
24 witnesses or provide evidence;  
25 and

1                   “(III) providing the complainant  
2                   an opportunity to—

3                   “(aa) receive any statements  
4                   or evidence provided to the Sec-  
5                   retary;

6                   “(bb) meet with the Sec-  
7                   retary; and

8                   “(cc) rebut any statements  
9                   or evidence; and

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

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

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

19                  “(ii) issue a decision granting or de-  
20                  nying relief.

21                  “(6) PRELIMINARY ORDER FOLLOWING INVES-  
22                  TIGATION.—If, after completion of an investigation  
23                  under paragraph (5)(A), the Secretary finds reason-  
24                  able cause to believe that a violation of subsection  
25                  (c)(1) or paragraph (2) of this subsection has oc-

1 curred, the Secretary shall issue a preliminary order  
2 providing relief authorized under paragraph (14) at  
3 the same time the Secretary issues a decision under  
4 paragraph (5)(B). If a de novo hearing is not re-  
5 quested within the time period required under para-  
6 graph (7)(A)(i), such preliminary order shall be  
7 deemed a final order of the Secretary and is not  
8 subject to judicial review.

9 “(7) HEARING.—

10 “(A) REQUEST FOR HEARING.—

11 “(i) IN GENERAL.—A de novo hearing  
12 on the record before an administrative law  
13 judge may be requested—

14 “(I) by the complainant or re-  
15 spondent within 30 days after receiv-  
16 ing notification of a decision granting  
17 or denying relief issued under para-  
18 graph (5)(B) or a preliminary order  
19 under paragraph (6), respectively;

20 “(II) by the complainant within  
21 30 days after the date the complaint  
22 is dismissed without investigation by  
23 the Secretary under paragraph (5)(A);  
24 or

1                   “(III) by the complainant within  
2                   120 days after the date of filing the  
3                   complaint under paragraph (5), if the  
4                   Secretary has not issued a decision  
5                   under paragraph (5)(B).

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

10                  “(B) PROCEDURES.—

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

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

1           ings) relating to the matter under consid-  
2           eration.

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

19          “(8) ADMINISTRATIVE APPEAL.—

20                 “(A) IN GENERAL.—Not later than 30  
21                 days after the date of notification of a decision  
22                 and order issued by an administrative law judge  
23                 under paragraph (7), the complainant or re-  
24                 spondent may file, with objections, an adminis-  
25                 trative appeal with an administrative review



1 body designated by the Secretary (referred to in  
2 this paragraph as the ‘review board’).

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

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

23 “(9) SETTLEMENT IN THE ADMINISTRATIVE  
24 PROCESS.—

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

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

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

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

21                         “(i) an administrative law judge has  
22                         not issued a decision and order within the  
23                         90-day time period required under para-  
24                         graph (7)(B)(iii); or

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

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

17          “(11) JUDICIAL REVIEW.—

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

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

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

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

1 “(13) BURDENS OF PROOF.—

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

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

22 “(14) RELIEF.—

23 “(A) ORDER FOR RELIEF.—If the Sec-  
24 retary, administrative law judge, review board,  
25 or a court determines that a covered employer

1 has violated subsection (c)(1) or paragraph (2)  
2 of this subsection, the Secretary, administrative  
3 law judge, review board, or court, respectively,  
4 shall have jurisdiction to order all appropriate  
5 relief, including injunctive relief, and compen-  
6 satory and exemplary damages, including—

7 “(i) affirmative action to abate the  
8 violation;

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

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

21 “(iv) expungement of all warnings,  
22 reprimands, or derogatory references that  
23 have been placed in paper or electronic  
24 records or databases of any type relating  
25 to the actions by the complainant that

1           gave rise to the unfavorable personnel ac-  
2           tion, and, at the complainant’s direction,  
3           transmission of a copy of the decision on  
4           the complaint to any person whom the  
5           complainant reasonably believes may have  
6           received such unfavorable information.

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

15                 “(i) reasonable attorneys’ fees; and

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

22          “(15) PROCEDURAL RIGHTS.—The rights and  
23          remedies provided for in this subsection may not be  
24          waived by any agreement, policy, form, or condition

1 of employment, including by any pre-dispute arbitra-  
2 tion agreement or collective bargaining agreement.

3 “(16) SAVINGS.—Nothing in this subsection  
4 shall be construed to diminish the rights, privileges,  
5 or remedies of any covered employee under any Fed-  
6 eral or State law or common law, or under any col-  
7 lective bargaining agreement.

8 “(17) ELECTION OF VENUE.—

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

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

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

19 “(B) REFERRALS.—If—

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

24 “(ii) a State plan administrator re-  
25 ceives a complaint pursuant to subpara-



1 graph (A)(ii), the State plan administrator  
2 shall not refer such complaint to the Sec-  
3 retary for resolution.

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

13 “(19) SUPPLEMENT AND NOT SUPPLANT.—The  
14 remedies provided for under this subsection supple-  
15 ment, and do not supplant, the private right of ac-  
16 tion under section 240 of the Agricultural Worker  
17 Justice Act.

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

20 “(A) the term ‘retaliate or discriminate  
21 against’ includes reporting, or threatening to  
22 report, to a Federal, State, or local authority  
23 the suspected citizenship or immigration status  
24 of a covered employee, or of a family member  
25 of a covered employee, because the covered em-

1           ployee raises a concern about workplace health  
2           and safety practices or hazards; and

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

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

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

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

17   **SEC. 237. REGULATIONS TO RESTORE A COLUMN ON RE-**  
18                           **QUIRED RECORDS OF WORK-RELATED MUS-**  
19                           **CULOSKELETAL DISORDERS.**

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

1 **SEC. 238. FUNDING FOR ADDITIONAL OSHA INSPECTORS.**

2 Out of any amounts in the Treasury not otherwise  
3 appropriated, there is appropriated \$60,000,000 to the  
4 Secretary for each of fiscal years 2024 through 2029, to  
5 remain available until expended for—

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

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

12 **SEC. 239. OSHA REPORTING.**

13 (a) DEFINITION OF PANDEMIC.—In this section, the  
14 term “pandemic” means a public health emergency de-  
15 clared under section 319 of the Public Health Service Act  
16 (42 U.S.C. 247d) with respect to a pandemic.

17 (b) REPORTING DURING A PANDEMIC.—

18 (1) STANDARDIZED REPORTING.—

19 (A) IN GENERAL.—The Secretary shall es-  
20 tablish a standardized process for covered es-  
21 tablishments to report, on a weekly basis during  
22 a pandemic, to the Secretary information re-  
23 garding infections and deaths related to the  
24 pandemic. Such information shall include—

25 (i) the number of employees on a  
26 weekly and cumulative basis that have con-

1           tracted the disease resulting in the pan-  
2           demic;

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

5           (iii) the employment status of such  
6           employees.

7           (B) FORM AND PROCEDURES.—Not later  
8           than 1 year after the date of enactment of this  
9           Act, or 7 days following a declaration of a pan-  
10          demic, whichever is sooner, the Secretary shall  
11          issue reporting procedures described in sub-  
12          paragraph (A), including forms for such proce-  
13          dures, for pandemics.

14          (2) PUBLIC AVAILABILITY.—The Secretary  
15          shall make the information reported under para-  
16          graph (1) available to the public in a manner that  
17          facilitates public participation, including by making  
18          such information available on its website in a man-  
19          ner that maximizes public participation.

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

1 (c) DISCLOSURES TO EMPLOYEES.—A covered estab-  
2 lishment shall disclose to each employee or individual pro-  
3 viding work for the employer, including any individual pro-  
4 viding such work through a contract or subcontract, all  
5 chemicals used at the worksite where the employee or indi-  
6 vidual provides such work. Such disclosure shall be pro-  
7 vided to the employee or individual in the native language  
8 of the employee or individual.

9 **SEC. 240. PRIVATE RIGHT OF ACTION.**

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

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

24 (c) ACTION BY THE SECRETARY.—Any administra-  
25 tive enforcement by the Secretary shall not preclude the

1 relief afforded by this section or otherwise deprive a court  
2 of jurisdiction.

3 **SEC. 241. INJUNCTION PROCEEDINGS.**

4 Section 13(a) of the Occupational Safety and Health  
5 Act of 1970 (29 U.S.C. 662(a)) is amended by adding at  
6 the end the following: “Any employee (or the representa-  
7 tive of such employee) at a place of employment subject  
8 to enforcement under this subsection may unconditionally  
9 intervene as a matter of right.”.

10 **PART IV—SAVINGS PROVISION**

11 **SEC. 251. SAVINGS PROVISION.**

12 Nothing in this subtitle shall be construed to diminish  
13 the rights, privileges, or remedies of any employee who ex-  
14 ercises rights under any Federal or State law or common  
15 law, or under any collective bargaining agreement.

16 **Subtitle B—GAO Reports**

17 **SEC. 261. REVIEW AND REPORT ON RACIAL AND ETHNIC**

18 **DISPARITIES IN MEAT AND POULTRY PROC-**

19 **ESSING.**

20 (a) **IN GENERAL.**—Not later than 180 days after the  
21 date of enactment of this Act, the Comptroller General  
22 of the United States shall carry out, and submit to Con-  
23 gress, a report on racial and ethnic disparities in the meat  
24 and poultry processing sector.

1 (b) INCLUSIONS.—The report under subsection (a)  
2 shall contain a review of each of the following:

3 (1) The impacts of working in covered estab-  
4 lishments to individuals working at such establish-  
5 ments who are employees, temporary workers, incar-  
6 cerated workers, noncitizen workers admitted to the  
7 United States as nonimmigrants described in section  
8 101(a)(15)(H)(ii)(b) of the Immigration and Nation-  
9 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) or as ref-  
10 ugees under section 207 of that Act (8 U.S.C.  
11 1157), or noncitizen workers who are not lawfully  
12 present in the United States, including—

13 (A) workplace injuries, including repetitive  
14 musculoskeletal injuries, of those individuals;

15 (B) psychological and mental health condi-  
16 tions of those individuals;

17 (C) exposure of those individuals to chemi-  
18 cals or other potential carcinogens and repro-  
19 ductive toxins; and

20 (D) any physical or mental abuse, includ-  
21 ing sexual harassment, of those individuals by  
22 coworkers or managers.

23 (2) The racial demographics and use of tem-  
24 porary workers to outsource the responsibility of  
25 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 those workers have  
5           a choice in working at covered establishments;

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

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

12                  (D) the use of those 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 those work-  
23           ers to choose and move between competing or-  
24           ganizations, are utilized by covered establish-  
25           ments with respect to those workers;



1 (B) the extent to which those 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 those 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 those 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 those workers.

○