

# STATE OF NEW YORK

11041

## IN ASSEMBLY

October 7, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to providing for cage-free egg production

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature hereby  
2 finds the following:

3 a. According to the Pew Commission on Industrial Farm Animal  
4 Production, food animals that are treated well and provided with at  
5 least minimum accommodation of their natural behaviors and physical  
6 needs are healthier and safer for human consumption.

7 b. A key finding from the World Health Organization and Food and Agri-  
8 cultural Organization of the United Nations Salmonella Risk Assessment  
9 was that reducing flock prevalence results in a directly proportional  
10 reduction in human health risk.

11 c. Egg-laying hens subjected to stress are more likely to have higher  
12 levels of pathogens in their intestines and the conditions increase the  
13 likelihood that consumers will be exposed to higher levels of food-borne  
14 pathogens.

15 d. Salmonella is the most commonly diagnosed food-borne illness in the  
16 United States.

17 e. It is the intent of the legislature to protect consumers from the  
18 deleterious, health, safety, and welfare effects of the sale and  
19 consumption of eggs derived from egg-laying hens that are exposed to  
20 significant stress and may result in increased exposure to disease  
21 pathogens including salmonella.

22 § 2. The agriculture and markets law is amended by adding a new  
23 section 160-f to read as follows:

24 § 160-f. Cage-free egg production. 1. Notwithstanding any other  
25 provision of law:

26 a. A farm owner or operator shall not confine or cause to be confined  
27 an egg-laying hen in an enclosure other than a cage-free housing system.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 b. No person shall sell or contract to sell a shell egg or liquid egg  
2 for human consumption if the seller knows or should have known that the  
3 shell egg or liquid egg is the product of an egg-laying hen that was  
4 confined in a manner that is inconsistent with the requirements of this  
5 section, regardless of whether the shell egg or liquid egg was produced  
6 in or out of the state.

7 2. This section shall not apply to any of the following:

8 a. Medical research;

9 b. Examination, testing, individual treatment, or operation for veter-  
10 inary purposes by a licensed veterinarian;

11 c. Transportation of an egg-laying hen;

12 d. State or county fair exhibitions and similar exhibitions;

13 e. 4-H programs administered by the National Institute of Food and  
14 Agriculture of the United States department of agriculture and similar  
15 youth programs;

16 f. Slaughter of an egg-laying hen in accordance with applicable laws  
17 and regulations; or

18 g. Temporary periods for animal husbandry purposes of no more than six  
19 hours in any twenty-four-hour period, and no more than twenty-four hours  
20 in any thirty-day period.

21 3. For purposes of this section:

22 a. "Cage-free housing system" means an indoor or outdoor controlled  
23 environment for an egg-laying hen within which:

24 (i) An egg-laying hen is free to roam unrestricted except by exterior  
25 walls;

26 (ii) An egg-laying hen is provided with, at a minimum, the amount of  
27 usable floor space per hen required by the two thousand seventeen  
28 edition of the united egg producers' animal husbandry guidelines for  
29 United States egg-laying flocks: guidelines for cage-free production, or  
30 a subsequent version of such guidelines recognized by the department in  
31 a rule or regulation which provides equal or more usable floor space per  
32 egg-laying hen.

33 (iii) An egg-laying hen is provided enrichments that allow a hen to  
34 exhibit natural behaviors, including, at a minimum, a scratch area, a  
35 perch, a nest box, and a dust bathing area;

36 (iv) A farm employee can provide care while standing somewhere within  
37 a hen's usable floor space; and

38 (v) Each egg-laying hen is provided unlimited access to the outdoors  
39 in a safe and secure environment that prevents access to predators.

40 b. "Commercial farm" means the land, building, and support facilities  
41 that are used for the commercial production of eggs intended for human  
42 consumption.

43 c. "Egg-laying hen" means a female domesticated chicken, turkey, duck,  
44 goose, or guinea fowl kept for the purpose of egg production.

45 d. "Farm owner or operator" means any person who owns or controls the  
46 operation of a commercial farm.

47 e. "Liquid egg" means an egg of an egg-laying hen broken from the  
48 shells that is intended for human consumption, with the yolks and whites  
49 in their natural proportions, or with the yolks and whites separated,  
50 mixed, or mixed and strained. Liquid eggs do not include combination  
51 food products, including pancake mixes, cake mixes, cookies, pizzas,  
52 cookie dough, ice cream, or similar processed or prepared food products  
53 that are comprised of more than liquid eggs, sugar, salt, water, season-  
54 ing, coloring, flavoring, preservatives, stabilizers, and similar food  
55 additives.

1 f. "Shell-egg" means a whole egg of an egg-laying hen in its shell  
2 form that is intended for human consumption.

3 g. "Usable floor space" means the total square footage of floor space  
4 provided to each egg-laying hen, calculated by dividing the total square  
5 footage of floor space in an enclosure by the number of hens in that  
6 enclosure and shall include ground space and elevated level or nearly  
7 level platforms to accommodate egg flow upon which a hen can roost but  
8 shall not include any perch or ramp.

9 4. The department shall inspect at reasonable times commercial farms  
10 engaged in the production of eggs for the purpose of enforcing the  
11 provisions of this section.

12 5. The department shall promulgate such rules and regulations as are  
13 necessary and appropriate to carry out the provisions of this section.

14 6. A violation of this section shall be punishable by a civil penalty  
15 of up to five thousand dollars for the first violation and up to twenty-  
16 five thousand dollars for any subsequent violation. Any civil penal-  
17 ties collected pursuant to this section shall be paid to the animal  
18 population control fund established by section ninety-seven-xx of the  
19 state finance law.

20 7. The commissioner may institute such action at law or in equity as  
21 may appear necessary to enforce compliance with any provisions of this  
22 section or of the rules and regulations promulgated thereunder, and, in  
23 addition to any other remedy under article three of this chapter or  
24 otherwise, may apply for relief by injunction without being compelled to  
25 allege or prove that an adequate remedy at law does not exist. Such  
26 application may be made to the supreme court in any district or county  
27 as provided in the civil practice law and rules, or to the supreme court  
28 in the third judicial district.

29 8. Nothing in this section shall be construed to affect any  
30 protections afforded to animals under any other provisions of law or  
31 rules or regulations.

32 9. Nothing in this section shall be construed to prevent any town,  
33 city, village or county in New York state from enacting a local law or  
34 ordinance to provide for the humane treatment of and prevention of  
35 cruelty to animals, provided, however, that no such law shall conflict  
36 with the provisions of this section.

37 § 3. This act shall take effect twenty-four months after it shall have  
38 become a law. Effective immediately, the addition, amendment and/or  
39 repeal of any rule or regulation necessary for the implementation of  
40 this act on its effective date are authorized to be made and completed  
41 on or before such effective date.