STATE OF NEW YORK

3630

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by 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:

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

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

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

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

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

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

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

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

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

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

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

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

a. Medical research;

b. Examination, testing, individual treatment, or operation for veterinary purposes by a licensed veterinarian;

c. Transportation of an egg-laying hen;

d. State or county fair exhibitions and similar exhibitions;

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

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

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

3. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

ing, coloring, flavoring, preservatives, stabilizers, and similar food additives.

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

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

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

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

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

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

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

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

§ 3. The article title of article 13-a of the agriculture and markets law, as added by chapter 409 of the laws of 1927, is amended to read as follows:

SALE OF EGGS

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