

1 SENATE BILL 347

2 55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO ANIMAL HUSBANDRY; ENACTING THE CONFINEMENT OF EGG-
12 LAYING HENS ACT; PROHIBITING CERTAIN CONFINEMENT OF EGG-LAYING
13 HENS; PROHIBITING THE SALE OF EGGS FROM CONFINED HENS;
14 PRESCRIBING PENALTIES.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
18 cited as the "Confinement of Egg-Laying Hens Act".

19 SECTION 2. [NEW MATERIAL] LEGISLATIVE DECLARATION.--In
20 accordance with the legislature's authority to protect the
21 health and welfare of consumers, promote food safety and
22 advance animal welfare, the legislature finds and declares that
23 the regulation of egg production on farms and of the sale of
24 eggs and egg products will further these goals.

25 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the

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1 Confinement of Egg-Laying Hens Act:

2 A. "board" means the board of regents of New Mexico
3 state university;

4 B. "business owner" or "business operator" means a
5 person that owns or controls the operations of a business;

6 C. "cage-free housing system":

7 (1) means an indoor or outdoor controlled
8 environment for egg-laying hens to which all of the following
9 apply:

10 (a) for an indoor environment, the
11 egg-laying hens are free to roam unrestricted except by the
12 following: 1) exterior walls; or 2) interior fencing used to
13 contain the entire egg-laying hen flock within the building or
14 subdivide flocks into smaller groups, if farm employees can
15 walk through each contained or subdivided area to provide care
16 to egg-laying hens and if each egg-laying hen has the minimum
17 amount of usable floor space described in Paragraph (2) of
18 Subsection B of Section 4 of the Confinement of Egg-Laying Hens
19 Act;

20 (b) egg-laying hens are provided
21 enrichments that allow them to exhibit natural behaviors,
22 including scratch areas, perches, nest boxes and dust bathing
23 areas; and

24 (c) farm employees can provide care
25 while standing within the egg-laying hens' usable floor space;

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1 (2) includes, to the extent that such systems
2 comply with the requirements of this subsection, multi-tiered
3 aviaries, partially slatted systems, single-level all-litter
4 floor systems and any future systems that will comply with the
5 requirements of this subsection; and

6 (3) does not include systems commonly
7 described as battery cages, colony cages, enriched cages,
8 enriched colony cages, modified cages, convertible cages,
9 furnished cages or similar cage systems;

10 D. "department" means the New Mexico department of
11 agriculture;

12 E. "egg-laying hen" means a female domesticated
13 chicken, turkey, duck, goose or guinea fowl kept for the
14 purpose of commercial shell egg or egg products production;

15 F. "egg products" means eggs of an egg-laying hen
16 broken from the shells, intended for human food, whether in
17 liquid, solid, dried or frozen form; whether raw or cooked; and
18 with the yolks and whites in their natural proportions, or with
19 the yolks and whites separated, mixed or mixed and strained;
20 "egg products" does not include combination food products that
21 are composed of more than egg products, sugar, salt, water,
22 seasoning, coloring, flavoring, preservatives, stabilizers and
23 similar food additives, such as pancake mixes, cake mixes,
24 cookies, pizzas, cookie dough, ice cream or similar food
25 products;

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1 G. "enclosure" means a structure used to confine an
2 egg-laying hen;

3 H. "farm" means the land, buildings, support
4 facilities and other equipment that are wholly or partially
5 used for the commercial production of animals or animal
6 products used for food; "farm" does not include live animal
7 markets or official plants at which mandatory inspection is
8 maintained under the federal Egg Products Inspection Act, 21
9 U.S.C. Chapter 15;

10 I. "farm owner" or "farm operator" means a person
11 that owns or controls the operations of a farm;

12 J. "multi-tiered aviary" means a cage-free housing
13 system where egg-laying hens have unfettered access to multiple
14 elevated platforms that provide the egg-laying hens with usable
15 floor space both on top of and underneath the platforms;

16 K. "partially slatted system" means a cage-free
17 housing system where egg-laying hens have unfettered access to
18 elevated flat platforms through which manure drops through the
19 flooring to a pit or litter removal belt below;

20 L. "sale" means a commercial sale by a person that
21 sells an item covered by the Confinement of Egg-Laying Hens
22 Act, but does not include a sale at an official plant at which
23 mandatory inspection is maintained under the federal Egg
24 Products Inspection Act, 21 U.S.C. Chapter 15; as used in the
25 Confinement of Egg-Laying Hens Act, a sale shall be deemed to

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1 occur at the location where the buyer takes physical possession
2 of the item being sold;

3 M. "shell egg" means a whole egg of an egg-laying
4 hen in its shell form, intended for use as human food;

5 N. "single-level all-litter floor system" means a
6 cage-free housing system bedded with litter where egg-laying
7 hens have limited or no access to elevated flat platforms; and

8 O. "usable floor space" means the total square
9 footage of floor space provided to each egg-laying hen, as
10 calculated by dividing the total square footage of floor space
11 provided to egg-laying hens in an enclosure by the number of
12 egg-laying hens in that enclosure; "usable floor space"
13 includes both ground space and elevated level or nearly level
14 flat platforms upon which hens can roost, but does not include
15 perches or ramps.

16 SECTION 4. [NEW MATERIAL] PROHIBITIONS.--

17 A. On or after July 1, 2022, a farm owner or farm
18 operator shall not knowingly confine an egg-laying hen in an
19 enclosure with less than one square foot of usable floor space
20 per egg-laying hen.

21 B. On or after July 1, 2024, a farm owner or farm
22 operator shall not knowingly confine an egg-laying hen in an
23 enclosure:

- 24 (1) that is not a cage-free housing system; or
25 (2) that has less than:

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1 (a) one square foot of usable floor
2 space per egg-laying hen in a cage-free housing system that
3 provides egg-laying hens with unfettered access to vertical
4 space, such as a multi-tiered aviary or a partially slatted
5 system; or

6 (b) one and one-half square feet of
7 usable floor space per egg-laying hen in a cage-free housing
8 system that does not provide egg-laying hens with unfettered
9 access to vertical space, such as a single-level all-litter
10 floor system.

11 C. On or after July 1, 2022, a business owner or
12 business operator shall not knowingly sell or transport for
13 sale in New Mexico shell eggs or egg products that the business
14 owner or business operator knows or should know were produced
15 by an egg-laying hen that was confined in a manner that
16 conflicts with the standards set forth in Subsections A and B
17 of this section.

18 SECTION 5. [NEW MATERIAL] EXEMPTIONS.--

19 A. Subsections A and B of Section 4 of the
20 Confinement of Egg-Laying Hens Act shall not apply during:

- 21 (1) medical research;
- 22 (2) examination, testing, individual treatment
23 or operation for veterinary purposes, but only if performed by
24 or under the direct supervision of a licensed veterinarian;
- 25 (3) transportation;

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1 (4) state or county fair exhibitions, 4-H
2 programs and similar exhibitions;

3 (5) slaughter in accordance with applicable
4 laws and rules;

5 (6) temporary periods for animal husbandry
6 purposes for no more than six hours in any twenty-four-hour
7 period and no more than twenty-four hours total in any
8 thirty-day period; or

9 (7) the production of breeder hatching eggs
10 not intended for human consumption.

11 B. The Confinement of Egg-Laying Hens Act shall not
12 apply to the production in New Mexico, sale in New Mexico or
13 transport for sale in New Mexico of shell eggs by a farm owner
14 or farm operator with annual shell egg production from fewer
15 than three thousand egg-laying hens if all shell eggs sold in
16 New Mexico or transported for sale in New Mexico by the farm
17 owner or farm operator are derived from fewer than three
18 thousand egg-laying hens.

19 SECTION 6. [NEW MATERIAL] AFFIRMATIVE DEFENSE.--It is an
20 affirmative defense to any action to enforce the Confinement of
21 Egg-Laying Hens Act that a business owner or business operator
22 relied in good faith upon a written certification by the
23 supplier that the shell eggs or egg products were not derived
24 from an egg-laying hen that was confined in a manner that
25 conflicts with the standards set forth in Subsections A and B

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1 of Section 4 of that act.

2 SECTION 7. [NEW MATERIAL] INJUNCTIVE RELIEF.--In addition
3 to other remedies provided in the Confinement of Egg-Laying
4 Hens Act, the department may apply to a district court for an
5 injunction restraining a person from violating or continuing to
6 violate provisions of that act or from failing or refusing to
7 comply with a rule promulgated pursuant to that act.

8 SECTION 8. [NEW MATERIAL] CIVIL PENALTY.--A person who
9 violates the Confinement of Egg-Laying Hens Act may be assessed
10 a civil penalty not to exceed five thousand dollars (\$5,000)
11 per violation.

12 SECTION 9. [NEW MATERIAL] ENFORCEMENT.--

13 A. The department, under the guidance and control
14 of the board, shall be responsible for administering and
15 enforcing the Confinement of Egg-Laying Hens Act. A farm owner
16 or farm operator shall allow the department access during
17 regular business hours to the farm, vehicles and records
18 pertinent to activities regulated pursuant to that act.

19 B. The board is empowered to promulgate rules that
20 are necessary to administer and enforce the Confinement of
21 Egg-Laying Hens Act, including rules governing the inspection
22 of farms, shell eggs and egg products to ensure that shell eggs
23 and egg products sold in New Mexico are produced in compliance
24 with that act.

25 C. The department may use a government or private

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1 inspection or process verification provider to ensure
2 compliance with the Confinement of Egg-Laying Hens Act. To
3 rely on a government or private inspection or process
4 verification provider, the department shall approve the
5 specific private inspection or process verification provider as
6 competent to ensure compliance with that act during both
7 production and handling of shell eggs and egg products.

8 SECTION 10. [NEW MATERIAL] CERTIFICATION.--

9 A. To sell shell eggs or egg products, to offer to
10 sell shell eggs or egg products or to transport shell eggs or
11 egg products for sale within New Mexico:

12 (1) a farm owner or farm operator shall obtain
13 from the department a certificate that the shell eggs or egg
14 products are produced in compliance with the Confinement of
15 Egg-Laying Hens Act; and

16 (2) a business owner or business operator
17 shall obtain a copy of the certificate issued pursuant to
18 Paragraph (1) of this subsection from a farm owner or farm
19 operator that the shell eggs or egg products comply with the
20 Confinement of Egg-Laying Hens Act. The business owner or
21 business operator shall retain the copy and provide the copy to
22 the department upon request.

23 B. The department shall certify shell eggs and egg
24 products as compliant with the Confinement of Egg-Laying Hens
25 Act if:

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1 (1) the enclosures for the egg-laying hens are
2 inspected in accordance with the rules promulgated pursuant to
3 Subsection B of Section 9 of that act; or

4 (2) the department determines the shell eggs
5 or egg products are accompanied with documentation proving the
6 enclosures for the egg-laying hens have undergone government or
7 private inspection and process verification services described
8 in Subsection C of Section 9 of that act.

9 C. The certification issued pursuant to this
10 section expires at the end of the calendar year.

11 D. The provisions of this section apply to the
12 sale, an offer to sell or the transportation for sale of shell
13 eggs and egg products in New Mexico occurring on or after July
14 1, 2022.

15 SECTION 11. [NEW MATERIAL] OTHER LAWS.--The provisions of
16 the Confinement of Egg-Laying Hens Act are in addition to, and
17 not in lieu of, other laws protecting animal welfare. The
18 Confinement of Egg-Laying Hens Act is not intended and should
19 not be construed to limit any other state law or rule
20 protecting the welfare of animals or to prevent a local
21 governing body from adopting and enforcing its own animal
22 welfare laws and regulations that are more stringent than that
23 act.

24 SECTION 12. SEVERABILITY.--If any part or application of
25 the provisions of this act is held invalid, the remainder or

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1 its application to other situations or persons shall not be
2 affected.

3 SECTION 13. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2021.

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