

REFERENCE TITLE: egg-laying hens; confinement; regulation

State of Arizona  
House of Representatives  
Fifty-fourth Legislature  
Second Regular Session  
2020

## **HB 2724**

Introduced by  
Representative Dunn

AN ACT

AMENDING SECTION 3-710, ARIZONA REVISED STATUTES; AMENDING TITLE 3, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO THE EGG-LAYING HENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-710, Arizona Revised Statutes, is amended to  
3 read:

4 3-710. Powers and duties: state preemption: egg promotion  
5 program

6 A. The department may acquire and distribute to interested persons  
7 useful information relative to preparing for market, handling, purchasing,  
8 transporting, storing and marketing eggs and egg products, including  
9 demonstrating how to classify eggs and egg products in accordance with the  
10 uniform standards and grades prescribed pursuant to this chapter.

11 B. The department may issue in booklet form copies of this article  
12 containing complete descriptive terms as to shell, aircell, white, yolk  
13 and germ, and may change definitions of terms and grades as they are made  
14 and promulgated by the United States department of agriculture.

15 C. On request of the United States government, and others, the  
16 director may negotiate and sign cooperative agreements to provide  
17 inspection and grading services and charge and receive payment for the  
18 reasonable cost of such services. The monies received for such services  
19 shall be deposited in the state egg inspection trust fund established by  
20 section 3-717.

21 D. When the production of papers, books and records relating to any  
22 matter under investigation is deemed advisable, the director may apply to  
23 the superior court in any county for an order requiring the production of  
24 the papers, books and records. If the court is satisfied that the papers,  
25 books and records are pertinent to the matter under investigation, their  
26 production shall be ordered.

27 E. A complaint filed with the department charging a noncompliance  
28 with or violation of any provision of this article shall be in writing and  
29 signed by the complainant.

30 F. The supervisor and inspectors shall enforce this article in  
31 conformity with rules adopted by the director. The refusal of an officer  
32 authorized under this article to carry out the orders and directions of  
33 the director in the enforcement of this article or prosecutions under this  
34 article is neglect of duty. The director shall make and enforce such  
35 rules as the director deems necessary to carry out this article.

36 G. An inspector may enter and inspect any place or conveyance  
37 within this state over which the inspector has supervision where eggs are  
38 produced, candled, incubated, stored, packed, delivered for shipment,  
39 loaded, shipped, transported or sold, and may inspect all invoices and  
40 eggs and the cases and containers of the eggs and equipment found in the  
41 places or conveyances, and may take for inspection representative samples  
42 of the invoices, eggs and cases or containers for the purpose of  
43 determining whether or not any provision of this article has been  
44 violated.

1 H. An inspector, while enforcing this article, may seize and hold  
2 as evidence an advertisement, sign, placard, invoice, case or container of  
3 eggs or egg products or all or any part of any pack, load, lot consignment  
4 or shipment of eggs or egg products packed, stored, delivered for  
5 shipment, loaded, shipped, transported or sold in violation of any  
6 provisions of this article.

7 I. The department may prescribe minimum standards for egg  
8 processing plants and sanitary standards for processing shell eggs. The  
9 department shall establish these standards by rule. Chemicals used in egg  
10 processing plants, sanitizers used in egg processing, egg soaps, egg oil  
11 and other substances used in processing shell eggs are subject to the  
12 approval of the director.

13 J. The director shall adopt rules for poultry husbandry and the  
14 production of eggs sold in this state. This subsection does not apply to  
15 egg producers operating or controlling the operation of an egg ranch that  
16 has fewer than ~~twenty~~ THREE thousand egg-laying hens producing eggs.

17 K. Consistency of poultry husbandry practices for the production of  
18 eggs is a statewide matter. The regulation of poultry husbandry practices  
19 related to the production of eggs is not subject to further regulation by  
20 a county, city, town or other political subdivision of this state.

21 L. The director may:

22 1. Establish an egg promotion program to provide certification,  
23 inspection and grading services and may prescribe, by rule, fees for those  
24 services. ~~Except as provided in paragraph 3 of this subsection,~~ Monies  
25 collected from the fees shall be deposited, pursuant to sections 35-146  
26 and 35-147, in the state egg inspection trust fund established by section  
27 3-717.

28 2. Adopt rules to administer the egg promotion program, including  
29 participation guidelines, use requirements for department trademarks and  
30 certification marks and other rules the director deems necessary.

31 3. Conduct inspections to ensure compliance with the trademark and  
32 certification mark rules adopted pursuant to this subsection. The monies  
33 collected from fees for an inspection conducted pursuant to this paragraph  
34 shall be deposited, pursuant to sections 35-146 and 35-147, in the state  
35 egg inspection trust fund established by section 3-717.

36 Sec. 2. Title 3, chapter 5, Arizona Revised Statutes, is amended by  
37 adding article 2, to read:

38 ARTICLE 2. CONFINEMENT OF EGG-LAYING HENS

39 3-761. Definitions

40 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

41 1. "BUSINESS OWNER OR OPERATOR" MEANS ANY PERSON THAT OWNS OR  
42 CONTROLS THE OPERATIONS OF A BUSINESS.

43 2. "CAGE-FREE HOUSING SYSTEM":

44 (a) MEANS AN INDOOR OR OUTDOOR CONTROLLED ENVIRONMENT FOR  
45 EGG-LAYING HENS TO WHICH ALL OF THE FOLLOWING APPLY:

1 (i) FOR AN INDOOR ENVIRONMENT, THE HENS ARE FREE TO ROAM  
2 UNRESTRICTED EXCEPT BY EXTERIOR WALLS, OR IN MULTITIERED AVIARIES,  
3 PARTIALLY SLATTED SYSTEMS, SINGLE-LEVEL ALL-LITTER FLOOR SYSTEMS OR ANY  
4 OTHER CAGE-FREE HOUSING SYSTEM THAT COMPLIES WITH THE REQUIREMENTS OF THIS  
5 PARAGRAPH, INTERIOR FENCES USED TO CONTAIN THE ENTIRE FLOCK WITHIN THE  
6 BUILDING OR SUBDIVIDE FLOCKS INTO SMALLER GROUPS, IF FARM EMPLOYEES CAN  
7 WALK THROUGH EACH CONTAINED OR SUBDIVIDED AREA TO PROVIDE CARE TO HENS AND  
8 IF EACH HEN HAS THE MINIMUM AMOUNT OF USABLE FLOOR SPACE PRESCRIBED IN  
9 SECTION 3-762.

10 (ii) THE HENS ARE PROVIDED ENRICHMENTS THAT ALLOW THEM TO EXHIBIT  
11 NATURAL BEHAVIORS, INCLUDING, AT A MINIMUM, SCRATCH AREAS, PERCHES, NEST  
12 BOXES, AND DUST BATHING AREAS.

13 (iii) FOR AN INDOOR ENVIRONMENT, A FARM EMPLOYEE CAN PROVIDE CARE  
14 WHILE STANDING WITHIN THE HENS' USABLE FLOOR SPACE.

15 (b) INCLUDES, TO THE EXTENT THAT SUCH SYSTEMS COMPLY WITH THE  
16 REQUIREMENTS OF THIS PARAGRAPH, MULTITIERED AVIARIES, PARTIALLY SLATTED  
17 SYSTEMS, SINGLE-LEVEL ALL LITTER FLOOR SYSTEMS AND ANY FUTURE SYSTEMS THAT  
18 WILL COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH.

19 (c) DOES NOT INCLUDE SYSTEMS COMMONLY DESCRIBED AS BATTERY CAGES,  
20 COLONY CAGES, ENRICHED CAGES, ENRICHED COLONY CAGES, MODIFIED CAGES,  
21 CONVERTIBLE CAGES OR FURNISHED CAGES OR SIMILAR CAGE SYSTEMS.

22 3. "DIRECTOR" MEANS THE DIRECTOR OF THE ARIZONA DEPARTMENT OF  
23 AGRICULTURE OR THE DIRECTOR'S DESIGNEE.

24 4. "EGG-LAYING HEN" MEANS ANY FEMALE DOMESTICATED CHICKEN, TURKEY,  
25 DUCK, GOOSE OR GUINEA FOWL KEPT FOR THE PURPOSE OF COMMERCIAL EGG  
26 PRODUCTION.

27 5. "EGG PRODUCTS":

28 (a) MEANS EGGS OF AN EGG-LAYING HEN BROKEN FROM THE SHELLS,  
29 INTENDED FOR HUMAN FOOD, WHETHER IN LIQUID, SOLID, DRIED OR FROZEN FORM,  
30 WHETHER RAW OR COOKED AND WITH THE YOLKS AND WHITES IN THEIR NATURAL  
31 PROPORTIONS, OR WITH THE YOLKS AND WHITES SEPARATED, MIXED OR MIXED AND  
32 STRAINED.

33 (b) DOES NOT INCLUDE COMBINATION FOOD PRODUCTS, INCLUDING PANCAKE  
34 MIXES, CAKE MIXES, COOKIES, PIZZAS, COOKIE DOUGH, ICE CREAM OR SIMILAR  
35 FOOD PRODUCTS THAT ARE COMPOSED OF MORE THAN EGG PRODUCTS, SUGAR, SALT,  
36 WATER, SEASONING, COLORING, FLAVORING, PRESERVATIVES, STABILIZERS AND  
37 SIMILAR FOOD ADDITIVES.

38 6. "ENCLOSURE" MEANS A STRUCTURE USED TO CONFINE AN EGG-LAYING HEN.

39 7. "FARM":

40 (a) MEANS THE LAND, BUILDING, SUPPORT FACILITIES AND OTHER  
41 EQUIPMENT THAT ARE WHOLLY OR PARTIALLY USED FOR THE COMMERCIAL PRODUCTION  
42 OF ANIMALS OR ANIMAL PRODUCTS USED FOR FOOD.

43 (b) DOES NOT INCLUDE LIVE ANIMAL MARKETS OR OFFICIAL PLANTS AT  
44 WHICH MANDATORY INSPECTION IS MAINTAINED UNDER THE EGG PRODUCTS INSPECTION  
45 ACT (P.L. 91-597; 84 STAT. 1620).

- 1           8. "FARM OWNER OR OPERATOR" MEANS ANY PERSON THAT OWNS OR CONTROLS  
2 THE OPERATIONS OF A FARM.
- 3           9. "MULTITIERED AVIARY" MEANS A CAGE-FREE HOUSING SYSTEM IN WHICH  
4 HENS HAVE UNFETTERED ACCESS TO MULTIPLE ELEVATED PLATFORMS THAT PROVIDE  
5 HENS WITH USABLE FLOOR SPACE BOTH ON TOP OF AND UNDERNEATH THE PLATFORMS.
- 6           10. "PARTIALLY SLATTED SYSTEM" MEANS A CAGE-FREE HOUSING SYSTEM IN  
7 WHICH HENS HAVE UNFETTERED ACCESS TO ELEVATED FLAT PLATFORMS UNDER WHICH  
8 MANURE DROPS THROUGH THE FLOORING TO A PIT OR LITTER REMOVAL BELT BELOW.
- 9           11. "PERSON" HAS THE SAME MEANING PRESCRIBED IN SECTION 3-701,  
10 PARAGRAPH 21.
- 11           12. "SALE":
- 12           (a) MEANS A COMMERCIAL SALE BY A BUSINESS THAT SELLS ANY ITEM  
13 COVERED BY THIS ARTICLE.
- 14           (b) DOES NOT INCLUDE ANY SALE UNDERTAKEN AT AN OFFICIAL PLANT AT  
15 WHICH MANDATORY INSPECTION IS MAINTAINED UNDER THE EGG PRODUCTS INSPECTION  
16 ACT (P.L. 91-597; 84 STAT. 1620).
- 17           13. "SHELL EGG" MEANS A WHOLE EGG OF AN EGG-LAYING HEN IN ITS SHELL  
18 FORM THAT IS INTENDED FOR USE AS HUMAN FOOD.
- 19           14. "SINGLE-LEVEL ALL-LITTER FLOOR SYSTEM" MEANS A CAGE-FREE  
20 HOUSING SYSTEM BEDDED WITH LITTER IN WHICH HENS HAVE LIMITED OR NO ACCESS  
21 TO ELEVATED FLAT PLATFORMS.
- 22           15. "USABLE FLOOR SPACE":
- 23           (a) MEANS THE TOTAL SQUARE FOOTAGE OF FLOOR SPACE PROVIDED TO EACH  
24 EGG-LAYING HEN, AS CALCULATED BY DIVIDING THE TOTAL SQUARE FOOTAGE OF  
25 FLOOR SPACE PROVIDED TO HENS IN AN ENCLOSURE BY THE NUMBER OF HENS IN THAT  
26 ENCLOSURE.
- 27           (b) INCLUDES BOTH GROUND SPACE AND ELEVATED LEVEL OR NEARLY LEVEL  
28 FLAT PLATFORMS ON WHICH HENS CAN ROOST.
- 29           (c) DOES NOT INCLUDE PERCHES OR RAMPS.
- 30           3-762. Egg-laying hens; enclosures; usable floor space  
31 requirements; prohibitions; exceptions
- 32           A. FROM AND AFTER DECEMBER 31, 2020, A FARM OWNER OR OPERATOR IN  
33 THIS STATE MAY NOT KNOWINGLY CONFINE AN EGG-LAYING HEN IN AN ENCLOSURE  
34 WITH LESS THAN ONE SQUARE FOOT OF USABLE FLOOR SPACE PER HEN.
- 35           B. FROM AND AFTER DECEMBER 31, 2024, A FARM OWNER OR OPERATOR IN  
36 THIS STATE MAY NOT KNOWINGLY CONFINE AN EGG-LAYING HEN IN AN ENCLOSURE:
- 37           1. THAT IS NOT A CAGE-FREE HOUSING SYSTEM.
- 38           2. WITH LESS THAN EITHER:
- 39           (a) ONE SQUARE FOOT OF USABLE FLOOR SPACE PER HEN IN MULTITIERED  
40 AVIARIES, PARTIALLY SLATTED CAGE-FREE HOUSING SYSTEMS OR ANY OTHER  
41 CAGE-FREE HOUSING SYSTEM THAT PROVIDES HENS WITH UNFETTERED ACCESS TO  
42 VERTICAL SPACE.

1 (b) ONE AND ONE-HALF SQUARE FEET OF USABLE FLOOR SPACE PER HEN IN  
2 SINGLE-LEVEL ALL-LITTER FLOOR SYSTEMS OR ANY OTHER CAGE-FREE HOUSING  
3 SYSTEM THAT DOES NOT PROVIDE HENS WITH UNFETTERED ACCESS TO VERTICAL  
4 SPACE.

5 C. FROM AND AFTER DECEMBER 31, 2020, REGARDLESS OF WHERE PRODUCED,  
6 A BUSINESS OWNER OR OPERATOR MAY NOT KNOWINGLY ENGAGE IN THE SALE IN THIS  
7 STATE OF OR TRANSPORT FOR SALE IN THIS STATE OF EITHER OF THE FOLLOWING:

8 1. SHELL EGGS THAT THE BUSINESS OWNER OR OPERATOR KNOWS OR SHOULD  
9 KNOW IS THE PRODUCT OF AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER  
10 THAT CONFLICTS WITH THE STANDARDS REQUIRED IN SUBSECTIONS A AND B OF THIS  
11 SECTION.

12 2. EGG PRODUCTS THAT THE BUSINESS OWNER OR OPERATOR KNOWS OR SHOULD  
13 KNOW ARE THE PRODUCT OF AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER  
14 THAT CONFLICTS WITH THE STANDARDS REQUIRED IN SUBSECTIONS A AND B OF THIS  
15 SECTION.

16 D. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO THE  
17 FOLLOWING ACTIVITIES:

18 1. MEDICAL RESEARCH.

19 2. EXAMINING, TESTING, INDIVIDUALLY TREATING OR OPERATING FOR  
20 VETERINARY PURPOSES, BUT ONLY IF PERFORMED BY OR UNDER THE DIRECT  
21 SUPERVISION OF A VETERINARIAN WHO IS LICENSED PURSUANT TO TITLE 32,  
22 CHAPTER 21.

23 3. TRANSPORTATION.

24 4. STATE OR COUNTY FAIR EXHIBITIONS, 4-H PROGRAMS AND SIMILAR  
25 EXHIBITIONS.

26 5. SLAUGHTER IN ACCORDANCE WITH ANY APPLICABLE LAWS, RULES AND  
27 REGULATIONS.

28 6. ANIMAL HUSBANDRY PURPOSES FOR TEMPORARY PERIODS OF NOT MORE THAN  
29 SIX HOURS IN ANY TWENTY-FOUR-HOUR PERIOD AND NOT MORE THAN TWENTY-FOUR  
30 HOURS TOTAL IN ANY THIRTY-DAY PERIOD.

31 3-763. Location of sale

32 FOR THE PURPOSES OF THIS ARTICLE, A SALE IS DEEMED TO OCCUR AT THE  
33 LOCATION WHERE THE BUYER TAKES PHYSICAL POSSESSION OF THE ITEM.

34 3-764. Director; powers and duties; rules; certification;  
35 enforcement

36 A. THE DIRECTOR SHALL ENFORCE THIS ARTICLE. THE DIRECTOR SHALL  
37 HAVE ACCESS DURING REGULAR BUSINESS HOURS TO BUSINESS PREMISES,  
38 FACILITIES, VEHICLES AND RECORDS PERTINENT TO ACTIVITIES THAT ARE  
39 REGULATED UNDER THIS ARTICLE.

40 B. THE DIRECTOR SHALL ADOPT RULES RELATING TO ENFORCING THIS  
41 ARTICLE, INCLUDING RULES RELATING TO INSPECTING FARMS, SHELL EGGS AND EGG  
42 PRODUCTS TO ENSURE SHELL EGGS AND EGG PRODUCTS SOLD IN THIS STATE COMPLY  
43 WITH THIS ARTICLE.

1 C. THE DIRECTOR MAY RELY ON GOVERNMENT OR PRIVATE THIRD-PARTY  
2 INSPECTION AND CONTINUOUS PROCESS VERIFICATION SERVICES TO ENSURE  
3 COMPLIANCE WITH THIS ARTICLE, IF THE DIRECTOR APPROVES THE SPECIFIC  
4 INSPECTION AND CONTINUOUS PROCESS VERIFICATION SERVICE AND IS SATISFIED  
5 THAT THE SERVICE IS SUFFICIENT TO ENSURE COMPLIANCE WITH THIS ARTICLE  
6 DURING EGG PROCESSING.

7 D. BEFORE A SALE WITHIN THIS STATE, SHELL EGGS AND EGG PRODUCTS  
8 MUST BE CERTIFIED AS COMPLIANT WITH THIS ARTICLE BY THE DIRECTOR. THE  
9 DIRECTOR SHALL CERTIFY SHELL EGGS AND EGG PRODUCTS AS COMPLIANT WITH THIS  
10 ARTICLE IF THE EGGS ARE INSPECTED TO SATISFY THE RULES ADOPTED PURSUANT TO  
11 SUBSECTION B OF THIS SECTION OR IF THE DIRECTOR DETERMINES THE EGGS ARE  
12 ACCOMPANIED WITH DOCUMENTATION PROVING THE EGGS HAVE UNDERGONE GOVERNMENT  
13 OR THIRD-PARTY INSPECTION AND PROCESS VERIFICATION SERVICES DESCRIBED IN  
14 SUBSECTION C OF THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO  
15 PROCESSING FACILITIES WITH MONTHLY CAPACITIES OF FEWER THAN THREE THOUSAND  
16 CASES OF SHELL EGGS.

17 E. THE ATTORNEY GENERAL OR COUNTY ATTORNEY, ON REQUEST, SHALL DO  
18 BOTH OF THE FOLLOWING:

19 1. ADVISE THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED AGENTS IN THE  
20 PERFORMANCE OF THE DIRECTOR'S OR THE AUTHORIZED AGENT'S DUTIES.

21 2. INSTITUTE AND PROSECUTE ACTIONS ARISING UNDER THIS ARTICLE.

22 3-765. Applicability of article

23 THIS ARTICLE DOES NOT APPLY TO A FARM OWNER OR OPERATOR WITH ANNUAL  
24 EGG PRODUCTION FROM A FLOCK OF NOT MORE THAN THREE THOUSAND EGG-LAYING  
25 HENS.

26 3-766. Affirmative defense

27 IT IS A DEFENSE TO ANY ACTION TO ENFORCE THIS ARTICLE THAT A  
28 BUSINESS OWNER OR OPERATOR RELIED IN GOOD FAITH ON A WRITTEN CERTIFICATION  
29 BY THE SUPPLIER THAT THE SHELL EGGS OR EGG PRODUCTS AT ISSUE WERE NOT  
30 DERIVED FROM AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER THAT  
31 CONFLICTS WITH THE REQUIREMENTS OF SECTION 3-762.

32 3-767. Injunction

33 THE DIRECTOR MAY BRING AN ACTION TO ENJOIN THE VIOLATION OR  
34 THREATENED VIOLATION OF ANY PROVISION OF THIS ARTICLE IN THE SUPERIOR  
35 COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED OR IS ABOUT TO OCCUR.

36 3-768. Violation; civil penalty

37 A PERSON WHO VIOLATES THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF  
38 AT LEAST \$100 BUT NOT MORE THAN \$500 PER VIOLATION.

39 Sec. 3. Exemption from rulemaking

40 For the purposes of this act, the Arizona department of agriculture  
41 is exempt from the rulemaking requirements of title 41, chapter 6, Arizona  
42 Revised Statutes, for one year after the effective date of this act.

1           Sec. 4. Legislative findings

2           The Legislature finds and declares that:

3           1. The regulation of egg production and of the sale of eggs and egg  
4 products is necessary to protect the health and welfare of consumers, to  
5 promote food safety, to advance animal welfare and to protect this state  
6 against the negative fiscal impacts associated with a lack of effective  
7 regulation of egg production and sales of eggs and egg products.

8           2. This act is in addition to, and not in lieu of, any other laws  
9 protecting animal welfare.

10          3. This act is not intended and should not be construed to limit  
11 any other state law or rules protecting the welfare of animals.

12          Sec. 5. Effective date

13          This act is effective from and after December 31, 2020.

14          Sec. 6. Severability

15          If a provision of this act or its application to any person or  
16 circumstance is held invalid, the invalidity does not affect other  
17 provisions or applications of the act that can be given effect without the  
18 invalid provision or application, and to this end the provisions of this  
19 act are severable.