

REFERENCE TITLE: egg-laying hens; confinement; regulation

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2525

Introduced by
Representative Kavanagh

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~~ ENFORCING this article or prosecutions
34 under this article is neglect of duty. The director shall make and
35 enforce such rules as the director deems necessary to carry out this
36 article.

37 G. An inspector may enter and inspect any place or conveyance
38 within this state over which the inspector has supervision where eggs are
39 produced, candled, incubated, stored, packed, delivered for shipment,
40 loaded, shipped, transported or sold, and may inspect all invoices and
41 eggs and the cases and containers of the eggs and equipment found in the
42 places or conveyances, and may take for inspection representative samples
43 of the invoices, eggs and cases or containers for the purpose of
44 determining whether or not any provision of this article has been
45 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 3-751. 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 3-752.

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 A SYSTEM COMPLIES WITH THE
16 REQUIREMENTS OF THIS PARAGRAPH, MULTITIERED AVIARIES, PARTIALLY SLATTED
17 SYSTEMS, SINGLE-LEVEL, ALL-LITTER FLOOR SYSTEMS AND ANY FUTURE SYSTEM THAT
18 WILL COMPLY WITH THE REQUIREMENTS OF THIS PARAGRAPH.

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

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 COMMERCIALY PRODUCING
42 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 12. "SALE":
- 11 (a) MEANS A COMMERCIAL SALE BY A BUSINESS THAT SELLS ANY ITEM
12 COVERED BY THIS ARTICLE.
- 13 (b) DOES NOT INCLUDE ANY SALE UNDERTAKEN AT AN OFFICIAL PLANT AT
14 WHICH MANDATORY INSPECTION IS MAINTAINED UNDER THE EGG PRODUCTS INSPECTION
15 ACT (P.L. 91-597; 84 STAT. 1620).
- 16 13. "SHELL EGG" MEANS A WHOLE EGG OF AN EGG-LAYING HEN IN ITS SHELL
17 FORM THAT IS INTENDED FOR USE AS HUMAN FOOD.
- 18 14. "SINGLE-LEVEL, ALL-LITTER FLOOR SYSTEM" MEANS A CAGE-FREE
19 HOUSING SYSTEM BEDDED WITH LITTER IN WHICH HENS HAVE LIMITED OR NO ACCESS
20 TO ELEVATED FLAT PLATFORMS.
- 21 15. "USABLE FLOOR SPACE":
- 22 (a) MEANS THE TOTAL SQUARE FOOTAGE OF FLOOR SPACE PROVIDED TO EACH
23 EGG-LAYING HEN, AS CALCULATED BY DIVIDING THE TOTAL SQUARE FOOTAGE OF
24 FLOOR SPACE PROVIDED TO HENS IN AN ENCLOSURE BY THE NUMBER OF HENS IN THAT
25 ENCLOSURE.
- 26 (b) INCLUDES BOTH GROUND SPACE AND ELEVATED LEVEL OR NEARLY LEVEL
27 FLAT PLATFORMS ON WHICH HENS CAN ROOST.
- 28 (c) DOES NOT INCLUDE PERCHES OR RAMPS.
- 29 3-752. Egg-laying hens; enclosures; usable floor space
30 requirements; prohibitions; exceptions
- 31 A. FROM AND AFTER DECEMBER 31, 2021 THROUGH DECEMBER 31, 2024, A
32 FARM OWNER OR OPERATOR IN THIS STATE MAY NOT KNOWINGLY CONFINE AN
33 EGG-LAYING HEN IN AN ENCLOSURE WITH LESS THAN ONE SQUARE FOOT OF USABLE
34 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 THAT EITHER:
- 38 1. IS NOT A CAGE-FREE HOUSING SYSTEM.
- 39 2. HAS LESS THAN EITHER:
- 40 (a) ONE SQUARE FOOT OF USABLE FLOOR SPACE PER HEN IN MULTITIERED
41 AVIARIES, PARTIALLY SLATTED CAGE-FREE HOUSING SYSTEMS OR ANY OTHER
42 CAGE-FREE HOUSING SYSTEM THAT PROVIDES EGG-LAYING HENS WITH UNFETTERED
43 ACCESS TO VERTICAL SPACE.

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

5 C. FROM AND AFTER DECEMBER 31, 2021 THROUGH DECEMBER 31, 2024,
6 REGARDLESS OF WHERE PRODUCED, A BUSINESS OWNER OR OPERATOR MAY NOT
7 KNOWINGLY SELL IN THIS STATE OR TRANSPORT FOR SALE IN THIS STATE EITHER OF
8 THE FOLLOWING:

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

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

17 D. FROM AND AFTER DECEMBER 31, 2024, REGARDLESS OF WHERE PRODUCED,
18 A BUSINESS OWNER OR OPERATOR MAY NOT KNOWINGLY SELL IN THIS STATE OR
19 TRANSPORT FOR SALE IN THIS STATE EITHER OF THE FOLLOWING:

20 1. SHELL EGGS THAT THE BUSINESS OWNER OR OPERATOR KNOWS OR SHOULD
21 KNOW ARE THE PRODUCT OF AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER
22 THAT CONFLICTS WITH THE STANDARDS REQUIRED IN SUBSECTION B OF THIS
23 SECTION.

24 2. EGG PRODUCTS THAT THE BUSINESS OWNER OR OPERATOR KNOWS OR SHOULD
25 KNOW ARE THE PRODUCT OF AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER
26 THAT CONFLICTS WITH THE STANDARDS REQUIRED IN SUBSECTION B OF THIS
27 SECTION.

28 E. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO THE
29 FOLLOWING ACTIVITIES:

30 1. MEDICAL RESEARCH.

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

35 3. TRANSPORTATION.

36 4. STATE OR COUNTY FAIR EXHIBITIONS, 4-H PROGRAMS AND SIMILAR
37 EXHIBITIONS.

38 5. SLAUGHTER IN ACCORDANCE WITH ANY APPLICABLE LAWS, RULES AND
39 REGULATIONS.

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

43 3-753. Location of sale

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

1 3-754. Director: powers and duties: rules: certification:
2 enforcement

3 A. THE DIRECTOR SHALL ENFORCE THIS ARTICLE. THE DIRECTOR SHALL
4 HAVE ACCESS DURING REGULAR BUSINESS HOURS TO BUSINESS PREMISES,
5 FACILITIES, VEHICLES AND RECORDS THAT ARE PERTINENT TO ACTIVITIES
6 REGULATED UNDER THIS ARTICLE.

7 B. THE DIRECTOR SHALL ADOPT RULES RELATING TO ENFORCING THIS
8 ARTICLE, INCLUDING RULES RELATING TO INSPECTING FARMS, SHELL EGGS AND EGG
9 PRODUCTS TO ENSURE SHELL EGGS AND EGG PRODUCTS SOLD IN THIS STATE COMPLY
10 WITH THIS ARTICLE.

11 C. THE DIRECTOR MAY RELY ON GOVERNMENT OR PRIVATE THIRD-PARTY
12 INSPECTION AND CONTINUOUS PROCESS VERIFICATION SERVICES TO ENSURE
13 COMPLIANCE WITH THIS ARTICLE, IF THE DIRECTOR APPROVES THE SPECIFIC
14 INSPECTION AND CONTINUOUS PROCESS VERIFICATION SERVICE AND IS SATISFIED
15 THAT THE SERVICE SUFFICIENTLY ENSURES COMPLIANCE WITH THIS ARTICLE DURING
16 EGG PROCESSING.

17 D. BEFORE A SALE WITHIN THIS STATE, SHELL EGGS AND EGG PRODUCTS
18 MUST BE CERTIFIED AS COMPLIANT WITH THIS ARTICLE BY THE DIRECTOR. THE
19 DIRECTOR SHALL CERTIFY SHELL EGGS AND EGG PRODUCTS AS COMPLIANT WITH THIS
20 ARTICLE IF THE EGGS ARE INSPECTED TO SATISFY THE RULES ADOPTED PURSUANT TO
21 SUBSECTION B OF THIS SECTION OR IF THE DIRECTOR DETERMINES THE EGGS ARE
22 ACCOMPANIED WITH DOCUMENTATION PROVING THE EGGS HAVE UNDERGONE GOVERNMENT
23 OR THIRD-PARTY INSPECTION AND PROCESS VERIFICATION SERVICES DESCRIBED IN
24 SUBSECTION C OF THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO
25 PROCESSING FACILITIES WITH MONTHLY CAPACITIES OF FEWER THAN THREE THOUSAND
26 CASES OF SHELL EGGS.

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

- 29 1. ADVISE THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED AGENTS IN THE
30 PERFORMING THE DIRECTOR'S OR THE AUTHORIZED AGENT'S DUTIES.
31 2. INSTITUTE AND PROSECUTE ACTIONS ARISING UNDER THIS ARTICLE.

32 3-755. Applicability of article

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

36 3-756. Affirmative defense

37 IT IS A DEFENSE TO ANY ACTION TO ENFORCE THIS ARTICLE THAT A
38 BUSINESS OWNER OR OPERATOR RELIED IN GOOD FAITH ON A WRITTEN CERTIFICATION
39 BY THE SUPPLIER THAT THE SHELL EGGS OR EGG PRODUCTS AT ISSUE WERE NOT
40 DERIVED FROM AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER THAT
41 CONFLICTS WITH THE REQUIREMENTS OF SECTION 3-752.

42 3-757. Injunction

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

1 3-758. Violation; civil penalty
2 A PERSON THAT VIOLATES THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF
3 AT LEAST \$100 BUT NOT MORE THAN \$500 PER VIOLATION.
4 Sec. 3. Exemption from rulemaking
5 For the purposes of this act, the Arizona department of agriculture
6 is exempt from the rulemaking requirements of title 41, chapter 6, Arizona
7 Revised Statutes, for one year after the effective date of this act.
8 Sec. 4. Legislative findings
9 The Legislature finds and declares that:
10 1. The regulation of egg production and of the sale of eggs and egg
11 products is necessary to protect the health and welfare of consumers, to
12 promote food safety, to advance animal welfare and to protect this state
13 against the negative fiscal impacts associated with a lack of effective
14 regulation of egg production and sales of eggs and egg products.
15 2. This act is in addition to, and not in lieu of, any other laws
16 protecting animal welfare.
17 3. This act is not intended and should not be construed to limit
18 any other state law or rules protecting the welfare of animals.
19 Sec. 5. Effective date
20 This act is effective from and after December 31, 2021.
21 Sec. 6. Severability
22 If a provision of this act or its application to any person or
23 circumstance is held invalid, the invalidity does not affect other
24 provisions or applications of the act that can be given effect without the
25 invalid provision or application, and to this end the provisions of this
26 act are severable.