

ASSEMBLY BILL NO. 399—COMMITTEE ON NATURAL RESOURCES

MARCH 25, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions governing the production and sale of eggs and egg products. (BDR 51-559)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to eggs; prohibiting a farm owner or operator from confining egg-laying hens in an enclosure which is not a cage-free housing system or is a cage-free housing system that has insufficient usable floor space for each egg-laying hen; requiring a farm owner or operator to obtain a certificate stating that the egg products or shell eggs sold, offered or exposed for sale or transported for sale within this State were produced by an egg-laying hen housed in an enclosure that is not prohibited; requiring the payment of an application fee and renewal fee for such certificates; authorizing the State Department of Agriculture to deny, suspend or revoke a certificate for certain causes; providing for an appeal within 10 business days after such an action; prohibiting a business owner or operator from doing business with a farm owner or operator that does not have a certificate; providing that the Department or an authorized inspector or agent of the Department is entitled to free access during regular business hours to the farm, business, records or vehicles of a farm owner or operator or business owner or operator to carry out inspections; authorizing the State Quarantine Officer to adopt regulations, including regulations establishing reasonable fees and charges; providing that certain civil penalties apply to any person who violates any provisions of this bill; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

Existing law sets forth various provisions governing the grades and standards for the sale of eggs in this State. (NRS 583.110-583.210) **Sections 2-22** of this bill require that an egg product or egg sold, offered for sell or transported for the purpose of selling within this State be produced by an egg-laying hen that is housed in a cage-free housing system.

Section 15 of this bill prohibits a farm owner or operator from confining an egg-laying hen in an enclosure which: (1) is not a cage-free housing system; or (2) is a cage-free housing system that has insufficient usable floor space for each egg-laying hen. **Section 4** of this bill provides that an egg-laying hen is a female chicken, turkey, duck, goose or guinea fowl that is domesticated and is kept for the purpose of producing eggs commercially. **Section 3** of this bill provides that a cage-free housing system is an enclosure for egg-laying hens which is located indoors or outdoors and which: (1) provides egg-laying hens enrichment that allows them to exhibit natural behaviors; (2) enables farm employees to provide care while standing within the usable floor space of the system; and (3) for a system located indoors, allows the egg-laying hens to be unrestricted and free to roam within the system. **Section 15** exempts certain farm owners or operators from this prohibition if the farm owner or operator confines an egg-laying hen or has confined an egg-laying hen during certain activities.

Before selling, offering or exposing for sale or transporting for sale egg products or shell eggs within this State, **section 16** of this bill requires a farm owner or operator to be issued a certificate from the State Department of Agriculture stating that the egg products or shell eggs sold, offered or exposed for sale or transported for sale within this State were produced by an egg-laying hen which was confined in a manner that complies with **section 15**. **Section 16** requires the farm owner or operator to pay any applicable fees, as established in regulation by the State Quarantine Officer, and to submit certain information to the Department to apply for a certificate, including evidence that the enclosure for egg-laying hens has been inspected by the Department or the Department's inspector or agent. **Section 16** provides that a certificate is valid for 1 year from the date of its issuance. **Section 16** additionally sets forth how such a certificate may be renewed, requires that a renewal fee be paid and authorizes the Department to require an inspection of the enclosure for egg-laying hens before renewing the certificate. **Section 16** prohibits the Department from renewing a certificate of a farm owner or operator who fails, without good cause, to submit the renewal fee to the Department within a certain period of time.

Section 17 of this bill authorizes the Department to deny an application for a certificate or a renewal of a certificate or to suspend or revoke a certificate upon the following grounds: (1) the failure or refusal of a farm owner or operator to comply with the provisions governing cage-free housing systems; (2) the failure or refusal of a farm owner or operator to cooperate with an inspection; or (3) a farm owner or operator selling, offering or exposing for sale or transporting for sale egg products or shell eggs within this State without a certificate. **Section 18** of this bill provides that a farm owner or operator whose certificate is denied, suspended or revoked may, not later than 10 business days after such denial, suspension or revocation, file a notice of appeal to the Department.

Section 19 of this bill prohibits a business owner or operator from selling, offering or exposing for sale or transporting for sale egg products or shell eggs within this State that the business owner or operator knows or should have known were produced by an egg-laying hen which was confined in a manner that did not comply with **section 15**. **Section 19** requires a business owner or operator to: (1) obtain a copy of the certificate issued to a farm owner or operator before doing business with the farm owner or operator; (2) retain a copy of the certificate; and (3) provide the copy of the certificate to the Department upon request. **Section 19**



provides that it is a defense to any action to enforce this bill that a business owner or operator relied in good faith upon a certificate obtained from a farm owner or operator.

Section 20 of this bill requires the Department to enforce the provisions of this bill. **Section 20** provides that the Department or an authorized inspector or agent of the Department is entitled to free access during regular business hours to the farm, business, records or vehicle of a farm owner or operator or business owner or operator to ensure compliance with the provisions of this bill. **Section 20** authorizes the Department to employ such inspectors or agents and requires the State Quarantine Officer, who is the Director of the Department, to adopt regulations governing the enforcement of this bill, including regulations governing such inspections.

Section 21 of this bill authorizes the State Quarantine Officer to adopt such regulations as he or she deems necessary to carry out the provisions of this bill, including regulations that establish reasonable fees and charges.

Existing law provides that any person violating certain provisions is subject to a civil penalty that does not exceed: (1) for the first violation, \$250; (2) for the second violation, \$500; and (3) for each subsequent violation, \$1,000. (NRS 583.700) **Section 22** of this bill provides that any person who violates any of the provisions of this bill is subject to these civil penalties.

Section 23 of this bill provides that this bill is in addition to and supplemental to the powers conferred by any other law protecting animal welfare. **Section 23** provides that the provisions of this bill must not be construed as to prevent the exercise of any power granted by any other law to any officer, agent or employee of this State or of a county or local governing body in this State that protect animal welfare. **Section 23** provides that this bill does not prevent a county or local governing body from adopting and enforcing its own animal welfare rules or ordinances that are more stringent than the provisions of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 583 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. *“Business owner or operator” means any person who owns or controls the operations of a business.*

Sec. 3. 1. *“Cage-free housing system” means an enclosure for egg-laying hens which is located indoors or outdoors and which:*

(a) Provides egg-laying hens enrichment that allows the egg-laying hens to exhibit natural behaviors, including, without limitation, scratch areas, perches, nest boxes and dust bathing areas;

(b) Enables farm employees to provide care while standing within the usable floor space of the system; and

(c) For a system located indoors, allows the egg-laying hens to be unrestricted and free to roam, except for the presence of:

(1) Exterior walls; and



(2) Interior fencing that is used to contain the entire flock of egg-laying hens within the system or to subdivide the flock of egg-laying hens into smaller groups if such interior fencing:

(I) Enables farm employees to walk through each contained or subdivided area to provide care to egg-laying hens; and

(II) Provides each egg-laying hen the minimum amount of usable floor space, as set forth in section 15 of this act.

2. The term includes, without limitation:

(a) Multi-tiered aviaries, partially slatted systems and single-level, all-litter floor systems which satisfy the conditions set forth in paragraphs (a), (b) and (c) of subsection 1; and

(b) Any future systems which satisfy the conditions set forth in paragraphs (a), (b) and (c) of subsection 1.

3. The term does not include systems that are commonly referred to as battery cages, colony cages, enriched cages, enriched colony cages, modified cages, convertible cages, furnished cages or any similar cage system.

Sec. 4. 1. "Egg product" means an egg of an egg-laying hen that is:

(a) Broken from the shell of the egg;

(b) Intended for human consumption in liquid, solid, dried or frozen form;

(c) Raw or cooked; and

(d) In a form with the yolks and whites in their natural proportions or with the yolks and whites separated, mixed or mixed and strained.

2. The term does not include pizzas, cookies, cookie dough, ice cream, mixes used for making pancakes or cakes and any other combination food product that is composed of more than egg products, sugar, salt, water, seasoning, coloring, flavoring, preservatives, stabilizers or similar food additives.

Sec. 5. "Egg-laying hen" means a female chicken, turkey, duck, goose or guinea fowl that is domesticated and is kept for the purpose of producing eggs commercially.

Sec. 6. "Enclosure" means a structure used to confine an egg-laying hen.

Sec. 7. 1. "Farm" means the land, buildings, support facilities and equipment used wholly or partially for the purpose of commercially producing animals or animal products that are used for food.

2. The term does not include live animal markets or official plants where inspections are required pursuant to the Egg Products Inspection Act, 21 U.S.C. §§ 1031 et seq.



Sec. 8. *“Farm owner or operator” means a person who owns a farm or controls the operations of a farm.*

Sec. 9. *“Multi-tiered aviary” means a cage-free housing system where egg-laying hens have unrestricted access to multiple elevated flat platforms that provide the egg-laying hens with usable floor space both on top of and underneath the platforms.*

Sec. 10. *“Partially slatted system” means a cage-free housing system where egg-laying hens have unrestricted access to elevated flat platforms under which manure drops through the flooring to a pit or belt that remove manure which is below the platforms.*

Sec. 11. 1. *“Sale” means a commercial sale by a business that sells any item covered by sections 2 to 22, inclusive, of this act which occurs at the location where the buyer takes physical possession of the item.*

2. *The term does not include a sale undertaken at an official plant where inspections are required pursuant to the Egg Products Inspection Act, 21 U.S.C. §§ 1031 et seq.*

Sec. 12. *“Shell egg” means a whole egg of an egg-laying hen that is in its shell form and intended for human consumption.*

Sec. 13. *“Single-level, all-litter floor system” means a cage-free housing system that uses litter for a ground cover and where egg-laying hens have limited or no access to elevated flat platforms.*

Sec. 14. 1. *“Usable floor space” means the total square footage of floor space provided to each egg-laying hen, as calculated by dividing the total square footage of floor space provided to egg-laying hens in an enclosure by the total number of egg-laying hens in that enclosure.*

2. *The term includes both ground space and elevated flat or nearly flat platforms upon which the egg-laying hens can roost.*

3. *The term does not include perches or ramps.*

Sec. 15. 1. *Except as otherwise provided in subsection 2, a farm owner or operator shall not confine an egg-laying hen in an enclosure which:*

(a) Is not a cage-free housing system; or

(b) Is a cage-free housing system that has less than:

(1) One square foot of usable floor space per egg-laying hen if the cage-free housing system provides egg-laying hens with unrestricted access to elevated flat platforms in a multi-tiered aviary or partially slatted system; or

(2) One and one-half square feet of usable floor space per egg-laying hen if the cage-free housing system does not provide unrestricted access to elevated flat platforms in a single-level, all-litter floor system.



2. The prohibition in subsection 1 does not apply to a farm owner or operator that confines an egg-laying hen or causes an egg-laying hen to be confined during:

- (a) Medical research for which the egg-laying hen is used;
- (b) The examination, testing or treatment of or a surgical procedure performed on the egg-laying hen that is conducted by a person licensed to practice as a veterinarian pursuant to chapter 638 of NRS;
- (c) The transportation of the egg-laying hen;
- (d) A State or county fair exhibition, 4-H program and other similar exhibition involving the egg-laying hen;
- (e) The slaughter of the egg-laying hen so long as the slaughter complies with the rules and regulations governing the slaughtering of such animals; or
- (f) Temporary periods for animal husbandry purposes. Such temporary periods must last not more than 6 hours in any 24-hour period and not more than 24 hours in total of such temporary periods are allowed in any 30-day period.

Sec. 16. 1. A farm owner or operator shall not sell, offer or expose for sale or transport for sale egg products or shell eggs within this State unless the farm owner or operator has been issued a certificate by the Department that the egg products or shell eggs were produced by an egg-laying hen which was confined in a manner that complies with section 15 of this act.

2. To apply for a certificate required pursuant to subsection 1, a farm owner or operator must submit to the Department:

- (a) A completed application on a form provided by the Department;
- (b) An attestation that the farm owner or operator confined the egg-laying hens in a manner that complies with section 15 of this act;
- (c) Any applicable fees, as set forth by the State Quarantine Officer by regulation; and
- (d) Evidence that the enclosures for egg-laying hens are inspected in accordance with the regulations adopted pursuant to section 20 of this act. Documentation proving that the enclosures for egg-laying hens have been inspected by an inspector or agent employed by the Department shall be sufficient evidence that the enclosures for egg-laying hens are inspected in accordance with the regulations adopted pursuant to section 20 of this act.

3. The Department shall issue a certificate to each qualified applicant if:

- (a) The farm owner or operator submits the information required pursuant to subsection 2; and



(b) The Department determines that such information is sufficient.

4. Each certificate issued pursuant to subsection 3 is valid for 1 year from the date of issuance.

5. The Department shall, not later than 45 days before a certificate issued pursuant to subsection 3 expires, send a notice of renewal to the holder of the certificate. The notice must include:

(a) The amount of the fee for the renewal of the certificate, as set forth by the State Quarantine Officer by regulation; and

(b) The date on which the application for the renewal of the certificate and fee for renewal must be returned to the Department.

6. The Department may require an inspection of the enclosure for egg-laying hens to determine whether to renew the certificate. If the Department determines that an inspection of the enclosure is required for the renewal of the certificate, the certificate remains in effect until the certificate expires or until the Department makes a determination whether to renew the certificate, whichever occurs later.

7. The Department shall not renew the certificate of a farm owner or operator who fails, without good cause, to submit the fee for renewal to the Department at least 30 days before the certificate expires. The provisions of this subsection do not prohibit a farm owner or operator from applying for a new certificate.

Sec. 17. The Department may deny an application for a certificate or an application for the renewal of a certificate submitted pursuant to section 16 of this act or suspend or revoke a certificate issued pursuant to section 16 of this act upon any of the following grounds:

1. The failure or refusal of a farm owner or operator to comply with the provisions of sections 2 to 22, inclusive, of this act, or any regulations adopted by the State Quarantine Officer pursuant thereto;

2. The failure or refusal of a farm owner or operator to cooperate with an inspection conducted by the Department pursuant to section 16 or 20 of this act; or

3. Selling, offering or exposing for sale or transporting for sale egg products or shell eggs within this State without being issued a certificate pursuant to section 16 of this act.

Sec. 18. A farm owner or operator who is aggrieved by an action of the Department concerning the denial, suspension or revocation of a certificate pursuant to section 17 of this act may, not later than 10 business days after the date on which the action of the Department is taken, file a notice of appeal to the



1 *Department in the manner set forth by the State Quarantine*
2 *Officer by regulation.*

3 **Sec. 19.** 1. *A business owner or operator shall not sell,*
4 *offer or expose for sale or transport for sale egg products or shell*
5 *eggs within this State if the business owner or operator knows or*
6 *should have known that the egg products or shell eggs were*
7 *produced by an egg-laying hen which was confined in a manner*
8 *that does not comply with section 15 of this act.*

9 2. *A business owner or operator shall obtain a copy of the*
10 *certificate issued pursuant to section 16 of this act from the farm*
11 *owner or operator to whom the certificate is issued before doing*
12 *any business governed by sections 2 to 22, inclusive, of this act*
13 *with the farm owner or operator.*

14 3. *The business owner or operator shall:*

15 (a) *Retain a copy of the certificate obtained pursuant to*
16 *subsection 2; and*

17 (b) *Provide a copy of the certificate to the Department upon*
18 *request.*

19 4. *It is a defense to any action to enforce sections 2 to 22,*
20 *inclusive, of this act that a business owner or operator relied in*
21 *good faith upon a certificate obtained pursuant to subsection 2.*

22 **Sec. 20.** 1. *The Department shall enforce the provisions of*
23 *sections 2 to 22, inclusive, of this act.*

24 2. *The Department or an authorized inspector or agent of the*
25 *Department is entitled to free access during regular business*
26 *hours to an applicable farm or business and to the records of such*
27 *a farm owner or operator or business owner or operator, or may*
28 *enter any vehicle being used to transport or hold egg-laying hens,*
29 *egg products or shell eggs in commerce, for the purpose of*
30 *inspecting such farm, business, record or vehicle to determine*
31 *whether any of the provisions of sections 2 to 22, inclusive, of this*
32 *act are being or have been violated.*

33 3. *The Department may employ such inspectors or agents as*
34 *may be necessary within any revenues generated or appropriation*
35 *provided for the purpose of carrying out and enforcing the*
36 *provisions of sections 2 to 22, inclusive, of this act. If the*
37 *Department employs such inspectors or agents, the Department*
38 *must approve each inspector or agent as competent to ensure*
39 *compliance with sections 2 to 22, inclusive, of this act.*

40 4. *The State Quarantine Officer shall adopt regulations*
41 *governing the enforcement of sections 2 to 22, inclusive, of this*
42 *act. Such regulations must include, without limitation, rules*
43 *governing the inspection of farms, businesses, records, vehicles,*
44 *egg-laying hens, egg products and shell eggs.*



1 **Sec. 21.** *The State Quarantine Officer may adopt such*
2 *regulations as he or she deems necessary for carrying out the*
3 *provisions of sections 2 to 22, inclusive, including, without*
4 *limitation, the establishment of reasonable fees and charges.*

5 **Sec. 22.** *Any person who violates any of the provisions of*
6 *sections 2 to 22, inclusive, of this act is subject to a civil penalty*
7 *pursuant to NRS 583.700.*

8 **Sec. 23.** 1. The provisions of this act are in addition to and
9 supplemental to, and not in substitution for, the powers conferred by
10 any other law protecting animal welfare.

11 2. The provisions of this act must not be construed as to
12 prevent the exercise of any power granted by any other law to any
13 officer, agent or employee of this State or of a county or local
14 governing body in this State that protects animal welfare.

15 3. The provisions of this act do not prevent a county or local
16 governing body from adopting and enforcing its own animal welfare
17 rules or ordinances that are more stringent than the provisions of this
18 act.

19 **Sec. 24.** 1. This section becomes effective upon passage and
20 approval.

21 2. Sections 1 to 23, inclusive, of this act become effective:

22 (a) Upon passage and approval for the purpose of adopting any
23 regulations and performing any other preparatory administrative
24 tasks that are necessary to carry out the provisions of this act; and

25 (b) July 1, 2022, for all other purposes.

