

Amendment No. 668

Senate Amendment to Assembly Bill No. 399 First Reprint (BDR 51-559)

Proposed by: Senate Committee on Health and Human Services

Amendment Box: Replaces Amendment No. 521.

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ALA/WLK



Date: 5/18/2021

A.B. No. 399—Revises provisions governing the production and sale of eggs and egg products. (BDR 51-559)



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.

~

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

AN ACT relating to eggs; prohibiting ~~any~~ certain farm ~~owner~~ owners or ~~operator~~ operators in this State from knowingly confining egg-laying hens in certain enclosures; exempting from certain provisions governing the production, sale and transport of egg farm owners or operators with an annual shell egg production from 3,000 or fewer egg-laying hens under certain circumstances; requiring ~~any~~ certain farm ~~owner~~ owners or ~~operator~~ operators to obtain an endorsement 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; authorizing the State Department of Agriculture to deny, suspend or revoke such an endorsement for certain causes; providing for an appeal within 10 business days after such an action; prohibiting certain acts related to the sale of egg products in shell eggs; 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 or records of ~~any~~ certain farm ~~owner~~ owners or ~~operator~~ operators or a business owner or operator to carry out certain inspections; authorizing the State Quarantine Officer to adopt regulations; providing a civil penalty; 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 1.3-22** of this bill enact provisions to prohibit an egg product or egg from being sold, offered for sale or transported for the purpose of sale within this State that is produced by an egg-laying hen that is confined in certain enclosures.

Section 1.3 of this bill provides that the Legislature finds and declares that the regulation of egg production on farms and of the sale of eggs and egg products in this State is necessary to protect the health and welfare of its citizens, promote food safety and advance animal welfare.

Section 1.5 of this bill provides that the provisions of sections 1.3-22 do not apply to the production, sale or transport for sale in this State of shell eggs by a farm owner or operator who has an annual shell egg production from 3,000 or fewer egg-laying hens if all shell eggs sold or transported for sale in this State by the farm owner or operator are derived from the 3,000 or fewer egg-laying hens.

Section 15 of this bill prohibits, on or after July 1, 2022, ~~the~~ certain farm ~~owner~~ owners or ~~operator~~ operators in this State from knowingly confining an egg-laying hen in an enclosure which has less than 1 square foot of usable floor space per egg-laying hen. Section 15 prohibits, on or after January 1, 2024, ~~the~~ certain farm ~~owner~~ owners or ~~operator~~ operators in this State from knowingly 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 5 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, in which egg-laying hens are unrestricted and free to roam under certain circumstances 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 from this prohibition certain confinements of an egg-laying hen if the egg-laying hen is confined during certain activities.

Existing law requires a person who is an actual producer of farm products, including, without limitation, eggs, to obtain a certificate as an actual producer of farm products from the State Department of Agriculture. (NRS 576.128; NAC 576.300-576.440) 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 ~~the~~ certain farm ~~owner~~ owners or ~~operator~~ operators to obtain from the Department an endorsement of the certificate indicating that the egg products or shell eggs sold, offered or exposed for sale or transported for sale within this State are 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 submit certain information to the Department to apply for such an endorsement, including evidence that the enclosure for egg-laying hens has been inspected by a government inspector or a private inspection or process verification provider to ensure compliance. Section 16 provides that an endorsement is valid for the same period as the certificate as an actual producer issued to the farm owner or operator. Section 16 additionally sets forth how such an endorsement may be renewed and authorizes the Department to require an inspection of the enclosure for egg-laying hens before renewing the endorsement.

Section 17 of this bill authorizes the Department to deny an application for an endorsement or a renewal of an endorsement or to suspend or revoke an endorsement upon the following grounds: (1) the failure or refusal of ~~the~~ certain farm owner or operator to comply with the provisions governing cage-free housing systems; (2) the failure or refusal of ~~the~~ certain farm owner or operator to cooperate with an inspection; or (3) ~~the~~ certain farm owner or operator selling, offering or exposing for sale or transporting for sale egg products or shell eggs within this State without an endorsement. Section 18 of this bill provides that a farm owner or operator whose endorsement 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 knowingly selling, offering or exposing for sale or transporting for sale certain 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 conflicts with the standards set forth in section 15. Section 19 requires a business owner or operator to: (1) obtain a copy of the certificate with the endorsement issued pursuant to section 16 issued to ~~the~~ certain farm ~~owner~~ owners or ~~operator~~ operators 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 or records of ~~the~~ **certain** farm ~~owner~~ **owners** or ~~operator~~ **operators** or a business owner or operator to ensure compliance with the provisions of this bill.

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.

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 1.3 to 22, inclusive, of this act.

Sec. 1.3. *The Legislature finds and declares that that the regulation of egg production on farms in this State and the regulation of the sale of eggs and egg products in this State is necessary to:*

- 1. Protect the health and welfare of consumers and its citizens;*
- 2. Promote food safety; and*
- 3. Advance animal welfare.*

Sec. 1.5. *The provisions of sections 1.3 to 22, inclusive, of this act do not apply to the production, sale or transport for sale in this State of shell eggs by a farm owner or operator with an annual shell egg production from 3,000 or fewer egg-laying hens if all shell eggs sold or transported for sale in this State by the owner or operator are derived from the 3,000 or fewer egg-laying hens.*

Sec. 1.7. *As used in sections 1.3 to 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 to 14, inclusive, of this act have the meanings ascribed to them in those sections.*

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, in which egg-laying hens are unrestricted and free to roam except as otherwise provided in paragraph (c), 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 for the egg-laying hens; 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 products" means the eggs of an egg-laying hen that are:

(a) Separated from the shells of the eggs;

(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 if the market or plant is receiving inspection service 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 1.3 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 mandatory inspections are maintained~~ if the plant is receiving inspection service pursuant to the Egg Products Inspection Act, 21 U.S.C. §§ 1031 et seq.

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

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

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

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

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

13 **Sec. 15.** 1. *Except as otherwise provided in subsections 2 and 3, on or*
14 *after July 1, 2022, a farm owner or operator in this State shall not knowingly*
15 *confine an egg-laying hen in an enclosure which has less than 1 square foot of*
16 *usable floor space per egg-laying hen.*

17 2. *Except as otherwise provided in subsection 3, on or after January 1,*
18 *2024, a farm owner or operator in this State shall not knowingly confine an egg-*
19 *laying hen in an enclosure which:*

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

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

22 (1) *One square foot of usable floor space per egg-laying hen if the cage-*
23 *free housing system provides egg-laying hens with unrestricted access to elevated*
24 *flat platforms, including, without limitation, unrestricted access in a multi-tiered*
25 *aviary or partially slatted system; or*

26 (2) *One and one-half square feet of usable floor space per egg-laying hen*
27 *if the cage-free housing system does not provide unrestricted access to elevated*
28 *flat platforms, including, without limitation, unrestricted access in a single-level,*
29 *all-litter floor system.*

30 3. *The prohibitions in subsections 1 and 2 do not apply to the confinement*
31 *of an egg-laying hen during:*

32 (a) *Medical research for which the egg-laying hen is used;*

33 (b) *The examination, testing or treatment of or a surgical procedure*
34 *performed on the egg-laying hen that is conducted by a person licensed to*
35 *practice as a veterinarian pursuant to chapter 638 of NRS or a person who is*
36 *under the direct supervision of a person licensed to practice as a veterinarian*
37 *pursuant to chapter 638 of NRS;*

38 (c) *The transportation of the egg-laying hen;*

39 (d) *A State or county fair exhibition, 4-H program ~~and~~ or other similar*
40 *exhibition involving the egg-laying hen;*

41 (e) *The slaughter of the egg-laying hen so long as the slaughter complies*
42 *with the rules and regulations governing the slaughtering of such animals; or*

43 (f) *Temporary periods for animal husbandry purposes. Such temporary*
44 *periods must last not more than 6 hours in any 24-hour period and not more than*
45 *24 hours in total of such temporary periods are allowed in any 30-day period.*

46 **Sec. 16.** 1. *A farm owner or operator shall not sell, offer or expose for*
47 *sale or transport for sale egg products or shell eggs within this State unless the*
48 *farm owner or operator has been issued a certificate by the Department pursuant*
49 *to NRS 576.128 and an endorsement of the certificate by the Department*
50 *indicating that the egg products or shell eggs were produced by an egg-laying hen*
51 *which was confined in a manner that complies with section 15 of this act.*

1 2. To apply for an endorsement required by subsection 1, a farm owner or
2 operator must submit to the Department with an application for a certificate or
3 renewal of a certificate issued pursuant to NRS 576.128:

4 (a) An attestation that the farm owner or operator confined the egg-laying
5 hens in a manner that complies with section 15 of this act; and

6 (b) Evidence that the enclosures for egg-laying hens have been inspected by
7 a person described in subsection 4.

8 3. The Department shall issue the endorsement required by subsection 1 to
9 an applicant if:

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

12 (b) The Department determines that such information is sufficient to indicate
13 compliance with section 15 of this act.

14 4. The Department may use a government inspector, including, without
15 limitation, an inspector who is employed, contracted with or authorized by the
16 Department, or a private inspection or process verification provider to ensure
17 compliance with sections 1.3 to 22, inclusive, of this act during the production
18 and the handling of egg products and shell eggs. If the Department uses such an
19 inspector or provider, the Department must approve the inspector or provider as
20 competent to ensure compliance with sections 1.3 to 22, inclusive, of this act.

21 5. Each endorsement issued pursuant to subsection 3 is valid for the period
22 for which the certificate issued pursuant to NRS 576.128 is valid.

23 6. If a holder of a certificate issued pursuant to NRS 576.128 holds an
24 endorsement issued pursuant to this section, the Department shall include in any
25 notice of renewal of the certificate provided to the holder of the certificate a
26 notice to renew the endorsement issued pursuant to this section.

27 7. The Department may require an inspection of the enclosure for egg-
28 laying hens to determine whether to renew an endorsement issued pursuant to
29 this section. If the Department determines that an inspection of the enclosure is
30 required for the renewal of the endorsement, the endorsement remains in effect
31 until the endorsement expires or until the Department makes a determination
32 whether to renew the endorsement, whichever occurs later.

33 8. The Department may not charge a fee for the issuance or renewal of an
34 endorsement pursuant to this section.

35 **Sec. 17.** The Department may deny an application for an endorsement or
36 an application for the renewal of an endorsement submitted pursuant to section
37 16 of this act or suspend or revoke an endorsement issued pursuant to section 16
38 of this act upon any of the following grounds:

39 1. The failure or refusal of a farm owner or operator to comply with the
40 provisions of sections 1.3 to 22, inclusive, of this act, or any regulations adopted
41 by the State Quarantine Officer pursuant thereto;

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

44 3. Selling, offering or exposing for sale or transporting for sale egg
45 products or shell eggs within this State without being issued a certificate pursuant
46 to NRS 576.128 and an endorsement issued pursuant to section 16 of this act.

47 **Sec. 18.** A farm owner or operator who is aggrieved by an action of the
48 Department concerning the denial, suspension or revocation of an endorsement
49 pursuant to section 17 of this act may, not later than 10 business days after the
50 date on which the action of the Department is taken, file a notice of appeal to the
51 Department in the manner set forth by the State Quarantine Officer by
52 regulation.

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

6 2. *A business owner or operator shall obtain a copy of the certificate issued*
7 *pursuant to NRS 576.128 that contains the endorsement issued pursuant to*
8 *section 16 of this act from the farm owner or operator to whom the certificate is*
9 *issued before doing any business governed by sections 1.3 to 22, inclusive, of this*
10 *act with the farm owner or operator.*

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

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

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

14 4. *It is a defense to any action to enforce sections 1.3 to 22, inclusive, of this*
15 *act that a business owner or operator relied in good faith upon a certificate*
16 *obtained pursuant to subsection 2.*

17 **Sec. 20. 1.** *The Department shall enforce the provisions of sections 1.3 to*
18 *22, inclusive, of this act.*

19 2. *The Department or an authorized inspector or agent of the Department is*
20 *entitled to free access during regular business hours to an applicable farm or*
21 *business and to the records of such a farm owner or operator or business owner*
22 *or operator for the purpose of inspecting such farm, business or record to*
23 *determine whether any of the provisions of sections 1.3 to 22, inclusive, of this act*
24 *are being or have been violated.*

25 **Sec. 21.** *The State Quarantine Officer may adopt such regulations as he or*
26 *she deems necessary for carrying out the provisions of sections 1.3 to 22,*
27 *inclusive.*

28 **Sec. 22.** *Any person who violates any of the provisions of sections 1.3 to 22,*
29 *inclusive, of this act is subject to a civil penalty pursuant to NRS 583.700.*

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

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

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

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

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

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

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