

LC 4298
2019 Regular Session
PRIORITY
3/15/19 (CDT/ps)

D R A F T

SUMMARY

Amends standards regulating egg production and sale of eggs and egg products. Amends definitions. Makes amendments to egg-laying hen housing standards operative January 1, 2024. Prohibits transactions involving eggs or egg products not produced in accordance with standards. Creates exceptions to egg-laying hen confinement prohibition. Makes imposition of civil penalty for egg law violations mandatory. Requires inspection of farms engaged in commercial production of eggs. Makes sunset two years earlier for provision establishing percentage goal regarding confinement conditions for egg-laying hens. Makes legislative findings.

A BILL FOR AN ACT

1
2 Relating to the egg industry; creating new provisions; amending ORS 632.835,
3 632.840 and 632.845 and sections 10 and 10a, chapter 436, Oregon Laws
4 2011; and repealing ORS 632.850.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made**
7 **a part of ORS 632.835 to 632.850.**

8 **SECTION 2. The Legislative Assembly finds and declares that the**
9 **regulation of egg production and the sale of eggs and egg products as**
10 **described in ORS 632.835 to 632.850 is necessary to protect the health**
11 **and welfare of consumers, to promote food safety, to advance animal**
12 **welfare and to protect this state against the negative fiscal impacts**
13 **associated with a lack of effective regulation of egg production and**
14 **sales of eggs and egg products.**

15 **SECTION 3. (1) Except as provided under subsection (2) of this**

1 section, a person may not buy, sell, offer to buy or sell, transport or
2 offer to transport in intrastate commerce, or accept receipt of, an egg
3 or egg product that was not produced under conditions meeting or
4 exceeding the enclosure standards established by State Department of
5 Agriculture rules under ORS 632.840.

6 (2) Subsection (1) of this section does not apply to a sale of eggs or
7 egg products at an official plant, as defined in 21 U.S.C. 1033, where
8 mandatory inspection is maintained under the federal Egg Products
9 Inspection Act (21 U.S.C. 1031 et seq.). For purposes of this subsection,
10 sale occurs at the location where the buyer takes physical possession
11 of the eggs or egg products.

12 SECTION 4. ORS 632.835 to 632.850 are in addition to, and not in lieu
13 of, any laws protective of animal welfare. ORS 632.835 to 632.850 do not
14 limit any other Oregon laws or rules protecting the welfare of animals
15 or prohibit the adoption or enforcement of animal welfare laws or
16 regulations by a local government as defined in ORS 174.116.

17 SECTION 5. ORS 632.835 is amended to read:

18 632.835. As used in ORS 632.835 to 632.850:

19 (1) “Cage-free housing system” means an indoor or outdoor con-
20 trolled environment for egg-laying hens within which the hens:

21 (a) May roam unrestricted, other than by external walls of the en-
22 vironment;

23 (b) Are provided with scratch areas, perches, nest boxes, dust
24 bathing areas and other enrichments that allow the hens to exhibit
25 natural behavior; and

26 (c) May receive care from farm employees while the employees are
27 standing within the usable floor space.

28 [(1)] (2) “Commercial farm” means the land, buildings and support facili-
29 ties that are used for the commercial production of animals or animal pro-
30 ducts used for food or fiber.

31 [(2)] (3) “Commercial farm owner or operator” means any person who

1 owns or controls the operation of a commercial farm. “Commercial farm
2 owner or operator” does not mean a contractor, consultant or nonmanage-
3 ment employee.

4 [(3)] (4) “Egg” means an egg, in the shell, from an egg-laying hen.

5 [(4)] (5) “Egg-laying hen” means any female domesticated chicken, turkey,
6 duck, goose, [or] guinea **fowl or other species of** fowl that is kept for the
7 purpose of egg production.

8 [(5)] (6) “Egg products” has the meaning given that term in ORS 632.705,
9 except that “egg products” does not include the following products when
10 those products are prepared from [*inspected*] egg products or eggs **inspected**
11 **by the United States Department of Agriculture, or by the State De-**
12 **partment of Agriculture under an agreement with the United States**
13 **Department of Agriculture, and the inspected egg products or eggs**
14 contain no more restricted eggs than are allowed in the official standards for
15 United States Consumer Grade B shell eggs:

- 16 (a) Freeze-dried products;
- 17 (b) Imitation egg products;
- 18 (c) Egg substitutes;
- 19 (d) Dietary foods;
- 20 (e) Dried no-bake custard mixes;
- 21 (f) Eggnog mixes;
- 22 (g) Acidic dressings;
- 23 (h) Noodles;
- 24 (i) Milk and egg dips;
- 25 (j) Cake mixes;
- 26 (k) French toast; [*and*]

27 **(L) Balut; and**

28 [(L)] (m) Sandwiches containing eggs or egg products.

29 [(6)] (7) “Enclosure” means any cage, crate or other structure used to
30 confine an egg-laying hen.

31 **(8) “Total square feet”:**

1 **(a) Means ground space plus platforms that are level or nearly level**
2 **upon which an egg-laying hen can roost.**

3 **(b) Does not include perches or ramps.**

4 **(9) “Usable floor space” means the total square feet of floor space**
5 **provided to an egg-laying hen, calculated by dividing the total square**
6 **feet of floor space in an enclosure by the number of egg-laying hens.**

7 **SECTION 6.** ORS 632.840, as amended by section 9, chapter 436, Oregon
8 Laws 2011, is amended to read:

9 632.840. (1) The State Department of Agriculture shall adopt rules regu-
10 lating the manner in which egg-laying hens may be confined in an enclosure
11 for purposes of ORS 632.835 to 632.850. The rules must:

12 (a) Be designed to promote humane welfare standards;

13 (b) Be effective in protecting consumers from food-borne pathogens;

14 [and]

15 [(c) *Require that enclosures meet standards equivalent to the requirements*
16 *for certification of enriched colony facility systems established in the American*
17 *Humane Association’s farm animal welfare certification program. In no event*
18 *may the rules authorize confining an egg-laying hen in an enclosure that pro-*
19 *vides less than 116.3 square inches of individually usable floor space per*
20 *hen.*]

21 **(c) Require that egg-laying hens be enclosed in a cage-free housing**
22 **system; and**

23 **(d) Establish usable floor space requirements.**

24 **(2) Except as provided under this subsection, the department shall**
25 **adopt rules that establish a usable floor space requirement equal to**
26 **the usable floor space standard set forth in United Egg Producers,**
27 **Animal Husbandry Guidelines for U.S. Egg-Laying Flocks (2017). If a**
28 **subsequent edition of the guidelines establishes a standard that re-**
29 **quires more usable floor space than the standard set forth in the 2017**
30 **Edition of the guidelines, the department may adopt the higher**
31 **standard.**

1 **(3) The department shall cause farms engaged in the commercial**
2 **production of eggs to be inspected, by qualified auditors at reasonable**
3 **times, for the purpose of enforcing the provisions of ORS 632.835 to**
4 **632.850.**

5 [(2)] (4) The department [may] **shall** impose a civil penalty pursuant to
6 ORS 183.745, not to exceed \$2,500, for violation of a provision of ORS 632.835
7 to 632.850.

8 [(3) *The department shall inspect at reasonable times commercial farms*
9 *engaged in the production of eggs for the purpose of enforcing the provisions*
10 *of ORS 632.835 to 632.850.*]

11 [(4)] (5) The department may fix, assess and collect, or cause to be col-
12 lected, from commercial farm owners or operators fees for the inspections
13 performed by employees or agents of the department under subsection (3) of
14 this section. The fees must have a uniform basis and must be in an amount
15 reasonably necessary to cover the costs of the inspections and related ad-
16 ministrative duties under ORS 632.835 to 632.850. The department shall adjust
17 the fees under this subsection to meet any expenses necessary to carry out
18 subsection (3) of this section and may prescribe a different fee scale for dif-
19 ferent localities. The department may prescribe a reasonable charge to be
20 paid by commercial farm owners or operators for travel expenses and other
21 related services if inspections under this section involve unusual cost to the
22 department. Moneys from fees and charges collected by the department under
23 this subsection must be deposited in the Department of Agriculture Service
24 Fund and are continuously appropriated to the department to be used for the
25 purpose of enforcing ORS 632.835 to 632.850.

26 **SECTION 7.** ORS 632.845 is amended to read:

27 632.845. (1) **Except as provided in subsection (2) of this section,** a
28 commercial farm owner or operator may not confine an egg-laying hen in an
29 enclosure that fails to comply with the rules adopted by the State Depart-
30 ment of Agriculture under ORS 632.840.

31 **(2) Subsection (1) of this section does not apply to the confinement**

1 of an egg-laying hen:

2 (a) During medical research;

3 (b) During an examination, a test, an individual treatment or an
4 operation conducted for veterinary purposes;

5 (c) During transportation or depopulation operations, if the con-
6 finement does not exceed seven days in any 18-month period;

7 (d) As part of a rodeo exhibition, state or county fair exhibition, 4-H
8 program exhibition or similar exhibition;

9 (e) During the slaughter of the egg-laying hen in accordance with
10 applicable laws and rules; or

11 (f) On a temporary basis for animal husbandry purposes, if the
12 confinement does not exceed six hours in any 24 hour period or exceed
13 24-hours in any 30-day period.

14 **SECTION 8.** Section 10, chapter 436, Oregon Laws 2011, is amended to
15 read:

16 **Sec. 10.** The amendments to [*section 4 of this 2011 Act*] **ORS 632.840** by
17 section 9 [*of this 2011 Act*], **chapter 436, Oregon Laws 2011, and section**
18 **6 of this 2019 Act** become operative on January 1, [2026] **2024.**

19 **SECTION 9.** No later than January 1, 2023, the State Department
20 of Agriculture shall adopt rules, to become effective January 1, 2024,
21 for administering and enforcing **ORS 632.840**, as amended by section 6
22 of this 2019 Act.

23 **SECTION 10.** Section 10a, chapter 436, Oregon Laws 2011, is amended to
24 read:

25 **Sec. 10a.** Section 8a [*of this 2011 Act*], **chapter 436, Oregon Laws 2011,**
26 is repealed on January 1, [2026] **2024.**

27 **SECTION 11.** **ORS 632.850 is repealed.**

28