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"Egg Products Inspections Act Amendments of 2012"

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H. R. 3798

To provide for a uniform national standard for the housing and treatment of egg-laying hens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2012

Mr. SCHRADER (for himself, Mr. GALLEGLY, Mr. FARR, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To provide for a uniform national standard for the housing and treatment of egg-laying hens, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Products Inspection Act Amendments of 2012".

SEC. 2. HEN HOUSING AND TREATMENT STANDARDS.

(a) DEFINITIONS.—Section 4 of the Egg Products Inspection Act (21 U.S.C. 1033) is amended—

(1) by redesignating subsection (a) as subsection (c);

(2) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (f), (g), (h), (i), (j), and (k), respectively;

(3) by redesignating subsections (h) and (i) as subsections (n) and (o), respectively;

(4) by redesignating subsections (j), (k), and (l) as subsections (r), (s), and (t), respectively;

(5) by redesignating subsections (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), and (z) as subsections (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh), and (ii), respectively;

(6) by inserting before subsection (c), as redesignated by paragraph (1), the following new subsections:

"(a) The term 'adequate environmental enrichments' means adequate perch space, dust bathing or scratching areas, and nest space, as defined by the Secretary of Agriculture, based on the best available science, including the most recent studies available at the time that the Secretary defines the term. The Secretary shall issue regulations defining this term not later than January 1, 2017, and the final regulations shall go into effect on December 31, 2018.

"(b) The term 'adequate housing-related labeling' means a conspicuous, legible marking on the front or top

of a package of eggs accurately indicating the type of housing that the egg-laying hens were provided during egg production, in one of the following formats:

"(1) 'Eggs from free-range hens' to indicate that the egg-laying hens from which the eggs or egg products were derived were, during egg production—

"(A) not housed in caging devices; and

"(B) provided with outdoor access.

"(2) 'Eggs from cage-free hens' to indicate that the egg-laying hens from which the eggs or egg products were derived were, during egg production, not housed in caging devices.

"(3) 'Eggs from enriched cages' to indicate that the egg-laying hens from which the eggs or egg products were derived were, during egg production, housed in caging devices that—

"(A) contain adequate environmental enrichments; and

"(B) provide the hens a minimum of 116 square inches of individual floor space per brown hen and 101 square inches of individual floor space per white hen.

"(4) 'Eggs from caged hens' to indicate that the egg-laying hens from which the eggs or egg

products were derived were, during egg production, housed in caging devices that either—

"(A) do not contain adequate environmental enrichments; or

"(B) do not provide the hens a minimum of 116 square inches of individual floor space per brown hen and 101 square inches of individual floor space per white hen.";

(7) by inserting after subsection (c), as redesignated by paragraph (1), the following new subsections:

"(d) The term 'brown hen' means a brown egg-laying hen used for commercial egg production.

"(e) The term 'caging device' means any cage, enclosure, or other device used for the housing of egg-laying hens for the production of eggs in commerce, but does not include an open barn or other fixed structure without internal caging devices.";

(8) by inserting after subsection (k), as redesignated by paragraph (2), the following new subsections:

"(l) The term 'egg-laying hen' means any female domesticated chicken, including white hens and brown hens, used for the commercial production of eggs for human consumption.

"(m) The term 'existing caging device' means any caging device that was continuously in use for the production of eggs in commerce up through and including December 31, 2011.";

(9) by inserting after subsection (o), as redesignated by paragraph (3), the following new subsections:

"(p) The term 'feed-withdrawal molting' means the practice of preventing food intake for the purpose of inducing egg-laying hens to molt.

"(q) The term 'individual floor space' means the amount of total floor space in a caging device available to each egg-laying hen in the device, which is calculated by measuring the total floor space of the caging device and dividing by the total number of egg-laying hens in the device.";

(10) by inserting after subsection (t), as redesignated by paragraph (4), the following new subsection:

"(u) The term 'new caging device' means any caging device that was not continuously in use for the production of eggs in commerce on or before December 31, 2011."; and

(11) by inserting at the end the following new subsections:

"(jj) The term 'water-withdrawal molting' means the practice of preventing water intake for the purpose of inducing egg-laying hens to molt.

"(kk) The term 'white hen' means a white egg-laying hen used for commercial egg production.".

(b) HOUSING AND TREATMENT OF EGG-LAYING HENS.—The Egg Products Inspection Act (21 U.S.C. 1031 et seq.) is amended by inserting after section 7 the following new sections:

"§ 7A. Housing and treatment of egg-laying hens

"(a) ENVIRONMENTAL ENRICHMENTS.—

"(1) EXISTING CAGING DEVICES.—All existing caging devices must provide egg-laying hens housed therein, beginning 15 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, adequate environmental enrichments.

"(2) NEW CAGING DEVICES.—All new caging devices must provide egg-laying hens housed therein, beginning nine years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, adequate environmental enrichments.

"(3) CAGING DEVICES IN CALIFORNIA.—All caging devices in California must provide egg-laying hens housed therein, beginning December 31, 2018, adequate environmental enrichments.

"(b) FLOOR SPACE.—

"(1) EXISTING CAGING DEVICES.—All existing cages devices must provide egg-laying hens housed therein—

"(A) beginning four years after the date of enactment of the Egg Products Inspection Act Amendments of 2012 and until the date that is 15 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, a minimum of 76 square inches of individual floor space per brown hen and 67 square inches of individual floor space per white hen; and

"(B) beginning 15 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, a minimum of 144 square inches of individual floor space per brown hen and 124 square inches of individual floor space per white hen.

"(2) NEW CAGING DEVICES.—Except as provided in paragraph (3), all new caging devices must provide egg-laying hens housed therein—

"(A) beginning three years after the date of enactment of the Egg Products Inspection Act Amendments of 2012 and until the date that is six years after the date of enactment of

the Egg Products Inspection Act Amendments of 2012, a minimum of 90 square inches of individual floor space per brown hen and 78 square inches of individual floor space per white hen;

"(B) beginning six years after the date of enactment of the Egg Products Inspection Act Amendments of 2012 and until the date that is nine years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, a minimum of 102 square inches of individual floor space per brown hen and 90 square inches of individual floor space per white hen;

"(C) beginning nine years after the date of enactment of the Egg Products Inspection Act Amendments of 2012 and until the date that is 12 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, a minimum of 116 square inches of individual floor space per brown hen and 101 square inches of individual floor space per white hen;

"(D) beginning 12 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012 and until the date that is 15 years after the date of enactment of the Egg

Products Inspection Act Amendments of 2012, a minimum of 130 square inches of individual floor space per brown hen and 113 square inches of individual floor space per white hen; and

"(E) beginning 15 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, a minimum of 144 square inches of individual floor space per brown hen and 124 square inches of individual floor space per white hen.

"(3) CALIFORNIA CAGING DEVICES.—All caging devices in California must provide egg-laying hens housed therein—

"(A) beginning January 1, 2015, and through December 31, 2020, a minimum of 134 square inches of individual floor space per brown hen and 116 square inches of individual floor space per white hen; and

"(B) beginning January 1, 2021, a minimum of 144 square inches of individual floor space per brown hen and 124 square inches of individual floor space per white hen.

"(c) AIR QUALITY.—Beginning two years after the date of enactment of the Egg Products Inspection Act

Amendments of 2012, an egg handler shall provide all egg-laying hens under his ownership or control with acceptable air quality, which does not exceed more than 25 parts per million of ammonia during normal operations.

"(d) FORCED MOLTING.—Beginning two years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, no egg handler may subject any egg-laying hen under his ownership or control to feed-withdrawal or water-withdrawal molting.

"(e) EUTHANASIA.—Beginning two years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, an egg handler shall provide, when necessary, all egg-laying hens under his ownership or control with euthanasia that is humane and uses a method deemed 'Acceptable' by the American Veterinary Medical Association.

"(f) PROHIBITION ON NEW UNENRICHABLE CAGES.—No person shall build, construct, implement, or place into operation any new caging device for the production of eggs to be sold in commerce unless the device—

"(1) provides the egg-laying hens to be contained therein a minimum of 76 square inches of individual floor space per brown hen or 67 square inches of individual floor space per white hen; and

"(2) is capable of being adapted to accommodate adequate environmental enrichments.

"(g) EXEMPTIONS.—

"(1) RECENTLY-INSTALLED EXISTING CAGING DEVICES.—The requirements contained in subsections (a)(1) and (b)(1)(B) shall not apply to any existing caging device that was first placed into operation between January 1, 2008, and December 31, 2011. This exemption shall expire 18 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, at which time the requirements contained in subsections (a)(1) and (b)(1)(B) shall apply to all existing caging devices.

"(2) HENS ALREADY IN PRODUCTION.—The requirements contained in subsections (a)(1), (a)(2), (b)(1)(B), and (b)(2) shall not apply to any caging device containing egg-laying hens who are already in egg production on the date that such requirement takes effect. This exemption shall expire on the date that such egg-laying hens are removed from egg production.

"(3) SMALL PRODUCERS.—Nothing contained in this section shall apply to an egg handler who buys, sells, handles, or processes eggs or egg prod-

ucts solely from one flock of not more than 3,000 egg-laying hens.

"§ 7B. Phase-in conversion requirements

"(a) FIRST CONVERSION PHASE.—As of six years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, at least 25 percent of the egg-laying hens in commercial egg production shall be housed either in new caging devices or in existing caging devices that provide the hens contained therein with a minimum of 102 square inches of individual floor space per brown hen and 90 square inches of individual floor space per white hen.

"(b) SECOND CONVERSION PHASE.—As of 12 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, at least 55 percent of the egg-laying hens in commercial egg production shall be housed either in new caging devices or in existing caging devices that provide the hens contained therein with a minimum of 130 square inches of individual floor space per brown hen and 113 square inches of individual floor space per white hen.

"(c) FINAL CONVERSION PHASE.—As of December 31, 2029, all egg-laying hens confined in caging devices shall be provided adequate environmental enrichments and a minimum of 144 square inches of individual floor space

per brown hen and 124 square inches of individual floor space per white hen.

"(d) COMPLIANCE.—

"(1) At the end of six years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, the Secretary shall determine, after having reviewed and analyzed the results of an independent, national survey of caging devices conducted in 2018, whether the requirements of subsection (a) have been met. If the Secretary finds that the requirements of subsection (a) have not been met, then beginning January 1, 2020, the floor space requirements (irrespective of the date such requirements expire) related to new caging devices contained in subsection (b)(2)(B) of section 7A shall apply to existing caging devices placed into operation prior to January 1, 1995.

"(2) At the end of 12 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, and again after December 31, 2029, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on compliance with subsections (b) and (c).

"(3) Notwithstanding section 12, the remedies provided in this subsection shall be the exclusive remedies for violations of this section.".

(c) INSPECTIONS.—Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended—

(1) in subsection (d), by inserting "(other than requirements with respect to housing, treatment, and house-related labeling)" after "as he deems appropriate to assure compliance with such requirements"; and

(2) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "and";

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting after subparagraph (A) the following new subparagraph:

"(B) are derived from egg-laying hens housed and treated in compliance with section 7A; and"; and

(iv) in subparagraph (C), as redesignated by clause (ii), by inserting "adequate housing-related labeling and" after "contain";

(B) in paragraph (2), by striking "In the case of a shell egg packer" and inserting "In the cases of an egg handler with a flock of more than 3,000 egg-laying hens and a shell egg packer";

(C) in paragraph (3), by inserting "(other than requirements with respect to housing, treatment, and housing-related labeling)" after "to ensure compliance with the requirements of paragraph (1)"; and

(D) in paragraph (4), by striking "with a flock of not more than 3,000 layers." and inserting "who buys, sells, handles, or processes eggs or egg products solely from one flock of not more than 3,000 egg-laying hens.".

(d) LABELING.—Section 7 of the Egg Products Inspection Act of 1970 (21 U.S.C. 1036) is amended in subsection (a) by inserting "adequate housing-related labeling," after "plant where the products were processed,".

(e) LIMITATION ON EXEMPTIONS BY SECRETARY.—Section 15 of the Egg Products Inspection Act of 1970 (21 U.S.C. 1044) is amended in subsection (a) by inserting ", not including subsection (c) of section 8," after "exempt from specific provisions".

(f) IMPORTS.—Section 17 of the Egg Products Inspection Act of 1970 (21 U.S.C. 1046) is amended in paragraph (2) of subsection (a) by striking "subdivision thereof and are labeled and packaged" and inserting "subdivision thereof; and no eggs or egg products capable of use as human food shall be imported into the United States unless they are produced, labeled, and packaged".

SEC. 3. ENFORCEMENT OF HEN HOUSING AND TREATMENT STANDARDS.

(a) IN GENERAL.—Section 8 of the Egg Products Inspection Act (21 U.S.C. 1037) is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business or commerce any eggs or egg products derived from egg-laying hens housed or treated in violation of any provision of section 7A.

"(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business or commerce any eggs or egg products derived from egg-laying hens unless the

container or package, including any immediate container, of the eggs or egg products, beginning one year after the date of enactment of the Egg Products Inspection Act Amendments of 2012, contains adequate housing-related labeling.

"(3) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business or commerce, in California, any eggs or egg products derived from egg-laying hens unless the egg-laying hens are—

"(A) provided—

"(i) beginning January 1, 2015, and through December 31, 2020, a minimum of 134 square inches of individual floor space per brown hen and 116 square inches of individual floor space per white hen; and

"(ii) beginning January 1, 2021, a minimum of 144 square inches of individual floor space per brown hen and 124 square inches of individual floor space per white hen; and

"(B) provided, beginning December 31, 2018, adequate environmental enrichments."; and

(3) in subsection (e), as redesignated by paragraph (1), by inserting "7A," after "section".

(b) LIMITATION ON AUTHORITY OF SECRETARY OF HEALTH AND HUMAN SERVICES.—Section 13 of the Egg Products Inspection Act of 1970 (21 U.S.C. 1042) is amended by inserting "(with respect to violations other than those related to requirements with respect to housing, treatment, and housing-related labeling) the" after "Before any violation of this chapter is reported by the Secretary of Agriculture or".

SEC. 4. STATE AND LOCAL AUTHORITY.

Section 23 of the Egg Products Inspection Act (21 U.S.C. 1052) is amended—

(a) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(b) by inserting after subsection (b) the following new subsection:

"(c) PROHIBITION AGAINST ADDITIONAL OR DIFFERENT REQUIREMENTS THAN FEDERAL REQUIREMENTS RELATED TO MINIMUM SPACE ALLOTMENTS FOR HOUSING EGG-LAYING HENS IN COMMERCIAL EGG PRODUCTION.—Requirements within the scope of this chapter with respect to minimum floor space allotments or enrichments for egg-laying hens housed in commercial egg production which are in addition to or different than those

made under this chapter may not be imposed by any State or local jurisdiction. Otherwise the provisions of this chapter shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this chapter."; and

(c) by inserting after subsection (e), as redesignated by subsection (a), the following new subsection:

"(f) ROLE OF CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE.—With respect to eggs produced, shipped, handled, transported or received in California prior to the date that is 18 years after the date of enactment of the Egg Products Inspection Act Amendments of 2012, the Secretary shall delegate to the California Department of Food and Agriculture the authority to enforce sections 7A(a)(3), 7A(b)(3), 8(c)(3), and 11.".

SEC. 5. EFFECTIVE DATE.

This Act shall take effect upon enactment.

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