

CHAPTER 217

AGRICULTURE

HOUSE BILL 20-1343

BY REPRESENTATIVE(S) Roberts, Kipp, Mullica, Singer, Valdez D., Young;
also SENATOR(S) Donovan, Ginal, Winter.

AN ACT**CONCERNING CONFINEMENT STANDARDS FOR EGG-LAYING HENS WHOSE EGGS ARE SOLD.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 2 to article 21 of title 35 as follows:

PART 2
CONFINEMENT OF EGG-LAYING HENS

35-21-201. Legislative declaration. IN ACCORDANCE WITH THE GENERAL ASSEMBLY'S AUTHORITY TO PROTECT THE HEALTH AND WELFARE OF CONSUMERS, PROMOTE FOOD SAFETY, AND ADVANCE ANIMAL WELFARE, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE REGULATION OF EGG PRODUCTION ON FARMS AND OF THE SALE OF EGGS AND EGG PRODUCTS WILL FURTHER THESE GOALS.

35-21-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BUSINESS OWNER OR OPERATOR" MEANS ANY PERSON WHO OWNS OR CONTROLS THE OPERATIONS OF A BUSINESS.

(2) (a) "CAGE-FREE HOUSING SYSTEM" MEANS AN INDOOR OR OUTDOOR CONTROLLED ENVIRONMENT FOR EGG-LAYING HENS TO WHICH ALL OF THE FOLLOWING APPLY:

(I) FOR AN INDOOR ENVIRONMENT, THE EGG-LAYING HENS ARE FREE TO ROAM UNRESTRICTED EXCEPT BY THE FOLLOWING:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(A) EXTERIOR WALLS; AND

(B) INTERIOR FENCING USED TO CONTAIN THE ENTIRE EGG-LAYING HEN FLOCK WITHIN THE BUILDING OR SUBDIVIDE FLOCKS INTO SMALLER GROUPS IF FARM EMPLOYEES CAN WALK THROUGH EACH CONTAINED OR SUBDIVIDED AREA TO PROVIDE CARE TO EGG-LAYING HENS AND IF EACH EGG-LAYING HEN HAS THE MINIMUM AMOUNT OF USABLE FLOOR SPACE DESCRIBED IN SECTION 35-21-203 (1)(b)(II);

(II) EGG-LAYING HENS ARE PROVIDED ENRICHMENTS THAT ALLOW THEM TO EXHIBIT NATURAL BEHAVIORS, INCLUDING, AT A MINIMUM, SCRATCH AREAS, PERCHES, NEST BOXES, AND DUST BATHING AREAS; AND

(III) FARM EMPLOYEES CAN PROVIDE CARE WHILE STANDING WITHIN THE EGG-LAYING HENS' USABLE FLOOR SPACE.

(b) "CAGE-FREE HOUSING SYSTEM" INCLUDES MULTI-TIERED AVIARIES, PARTIALLY SLATTED SYSTEMS, AND SINGLE-LEVEL ALL-LITTER FLOOR SYSTEMS.

(c) "CAGE-FREE HOUSING SYSTEM" DOES NOT INCLUDE SYSTEMS COMMONLY DESCRIBED AS BATTERY CAGES, COLONY CAGES, ENRICHED CAGES, ENRICHED COLONY CAGES, MODIFIED CAGES, CONVERTIBLE CAGES, FURNISHED CAGES, OR SIMILAR CAGE SYSTEMS.

(3) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE.

(4) "EGG-LAYING HEN" MEANS A FEMALE DOMESTICATED CHICKEN, TURKEY, DUCK, GOOSE, OR GUINEA FOWL KEPT FOR THE PURPOSE OF COMMERCIAL EGG PRODUCTION.

(5) (a) "EGG PRODUCT" MEANS AN EGG OF AN EGG-LAYING HEN THAT IS SEPARATED FROM THE SHELL AND INTENDED FOR HUMAN FOOD, WHETHER IN LIQUID, SOLID, DRIED, OR FROZEN FORM, WHETHER RAW OR COOKED, AND WITH:

(I) THE EGG YOLK AND EGG WHITE IN THEIR NATURAL PROPORTIONS; OR

(II) THE EGG YOLK AND EGG WHITE SEPARATED, MIXED, OR MIXED AND STRAINED.

(b) "EGG PRODUCT" DOES NOT INCLUDE COMBINATION FOOD PRODUCTS, INCLUDING PANCAKE MIXES, CAKE MIXES, COOKIES, PIZZAS, COOKIE DOUGH, OR ICE CREAM, THAT INCLUDE EGG AS ONE OF MULTIPLE INGREDIENTS IN THE PRODUCT; EXCEPT THAT MERELY ADDING SUGAR, SALT, WATER, SEASONING, COLORING, FLAVORING, PRESERVATIVES, STABILIZERS, OR SIMILAR FOOD ADDITIVES DOES NOT MAKE AN EGG PRODUCT A COMBINATION FOOD PRODUCT.

(6) "ENCLOSURE" MEANS A STRUCTURE USED TO CONFINE AN EGG-LAYING HEN.

(7) (a) "FARM" MEANS THE LAND, BUILDING, SUPPORT FACILITIES, AND OTHER EQUIPMENT THAT ARE WHOLLY OR PARTIALLY USED FOR THE COMMERCIAL PRODUCTION OF ANIMALS OR ANIMAL PRODUCTS USED FOR FOOD.

(b) "FARM" DOES NOT INCLUDE LIVE ANIMAL MARKETS OR OFFICIAL PLANTS WHERE MANDATORY INSPECTION IS MAINTAINED UNDER THE FEDERAL "EGG PRODUCTS INSPECTION ACT", 21 U.S.C. SEC. 1031 ET SEQ., AS AMENDED.

(8) "FARM OWNER OR OPERATOR" MEANS A PERSON THAT OWNS A FARM OR CONTROLS THE OPERATIONS OF A FARM.

(9) "MULTI-TIERED AVIARY" MEANS A CAGE-FREE HOUSING SYSTEM WHERE EGG-LAYING HENS HAVE UNFETTERED ACCESS TO MULTIPLE ELEVATED PLATFORMS THAT PROVIDE THE EGG-LAYING HENS WITH USABLE FLOOR SPACE BOTH ON TOP OF AND UNDERNEATH THE PLATFORMS.

(10) "PARTIALLY SLATTED SYSTEM" MEANS A CAGE-FREE HOUSING SYSTEM WHERE EGG-LAYING HENS HAVE UNFETTERED ACCESS TO ELEVATED FLAT PLATFORMS UNDER WHICH MANURE DROPS THROUGH THE FLOORING TO A PIT OR LITTER REMOVAL BELT BELOW THE PLATFORM.

(11) "SALE" MEANS A COMMERCIAL SALE BY A BUSINESS THAT SELLS ANY ITEM COVERED BY THIS PART 2. "SALE" DOES NOT INCLUDE ANY SALE UNDERTAKEN AT AN OFFICIAL PLANT WHERE MANDATORY INSPECTION IS MAINTAINED UNDER THE FEDERAL "EGG PRODUCTS INSPECTION ACT", 21 U.S.C. SEC. 1031 ET SEQ., AS AMENDED.

(12) "SHELL EGG" MEANS A WHOLE EGG OF AN EGG-LAYING HEN IN ITS SHELL FORM, INTENDED FOR USE AS HUMAN FOOD.

(13) "SINGLE-LEVEL ALL-LITTER FLOOR SYSTEM" MEANS A CAGE-FREE HOUSING SYSTEM BEDDED WITH LITTER WHERE EGG-LAYING HENS HAVE LIMITED OR NO ACCESS TO ELEVATED FLAT PLATFORMS.

(14) (a) "USABLE FLOOR SPACE":

(I) 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 NUMBER OF EGG-LAYING HENS IN THAT ENCLOSURE; AND

(II) INCLUDES BOTH GROUND SPACE AND ELEVATED LEVEL OR NEARLY LEVEL FLAT PLATFORMS UPON WHICH EGG-LAYING HENS CAN ROOST.

(b) "USABLE FLOOR SPACE" DOES NOT INCLUDE PERCHES OR RAMPS.

35-21-203. Enclosure requirements - repeal. (1) (a) (I) ON AND AFTER JANUARY 1, 2023, A FARM OWNER OR OPERATOR SHALL NOT KNOWINGLY CONFINE AN EGG-LAYING HEN IN AN ENCLOSURE WITH LESS THAN ONE SQUARE FOOT OF USABLE FLOOR SPACE PER EGG-LAYING HEN.

(II) THIS SUBSECTION (1)(a) IS REPEALED, EFFECTIVE JANUARY 1, 2025.

(b) ON AND AFTER JANUARY 1, 2025, A FARM OWNER OR OPERATOR SHALL NOT KNOWINGLY CONFINE AN EGG-LAYING HEN IN AN ENCLOSURE:

(I) THAT IS NOT A CAGE-FREE HOUSING SYSTEM; OR

(II) THAT HAS LESS THAN:

(A) ONE SQUARE FOOT OF USABLE FLOOR SPACE PER EGG-LAYING HEN IN A CAGE-FREE HOUSING SYSTEM THAT PROVIDES EGG-LAYING HENS WITH UNFETTERED ACCESS TO VERTICAL SPACE, SUCH AS A MULTI-TIERED AVIARY OR A PARTIALLY SLATTED SYSTEM; OR

(B) ONE AND ONE-HALF SQUARE FEET OF USABLE FLOOR SPACE PER EGG-LAYING HEN IN A CAGE-FREE HOUSING SYSTEM THAT DOES NOT PROVIDE EGG-LAYING HENS WITH UNFETTERED ACCESS TO VERTICAL SPACE, SUCH AS A SINGLE-LEVEL ALL-LITTER FLOOR SYSTEM.

(2) (a) A BUSINESS OWNER OR OPERATOR SHALL NOT KNOWINGLY SELL OR TRANSPORT FOR SALE IN THE STATE A SHELL EGG OR EGG PRODUCT THAT THE BUSINESS OWNER OR OPERATOR KNOWS OR SHOULD KNOW WAS PRODUCED BY AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER THAT CONFLICTS WITH THE STANDARDS REQUIRED IN SUBSECTION (1) OF THIS SECTION.

(b) (I) THIS SUBSECTION (2) TAKES EFFECT JANUARY 1, 2023.

(II) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE JANUARY 1, 2025.

(3) FOR THE PURPOSES OF THIS PART 2, A SALE IS DEEMED TO OCCUR AT THE LOCATION WHERE THE BUYER TAKES PHYSICAL POSSESSION OF THE ITEM.

35-21-204. Exceptions. (1) SECTION 35-21-203 (1) DOES NOT APPLY DURING:

(a) MEDICAL RESEARCH;

(b) EXAMINATION, TESTING, INDIVIDUAL TREATMENT, OR OPERATION FOR VETERINARY PURPOSES, BUT ONLY IF PERFORMED BY OR UNDER THE DIRECT SUPERVISION OF A VETERINARIAN LICENSED IN ACCORDANCE WITH ARTICLE 315 OF TITLE 12;

(c) TRANSPORTATION;

(d) A STATE OR COUNTY FAIR EXHIBITION, A 4-H PROGRAM, AND SIMILAR EXHIBITIONS;

(e) SLAUGHTER, IF DONE IN ACCORDANCE WITH AN APPLICABLE LAW; OR

(f) TEMPORARY PERIODS FOR ANIMAL HUSBANDRY PURPOSES FOR NO MORE THAN SIX HOURS IN ANY TWENTY-FOUR-HOUR PERIOD AND NO MORE THAN TWENTY-FOUR HOURS TOTAL IN ANY THIRTY-DAY PERIOD.

(2) THIS PART 2 DOES NOT APPLY TO:

(a) THE PRODUCTION IN THE STATE, SALE IN THE STATE, OR TRANSPORT FOR SALE IN THE STATE OF SHELL EGGS BY A FARM OWNER OR OPERATOR WITH ANNUAL SHELL

EGG PRODUCTION FROM THREE THOUSAND OR FEWER EGG-LAYING HENS IF ALL SHELL EGGS SOLD IN THE STATE OR TRANSPORTED FOR SALE IN THE STATE BY THE FARM OWNER OR OPERATOR ARE DERIVED FROM THREE THOUSAND OR FEWER EGG-LAYING HENS; OR

(b) THE SALE OF OR TRANSPORT FOR SALE OF SHELL EGGS IN THE STATE BY A BUSINESS OWNER OR OPERATOR AT ONE OR MORE BUSINESS LOCATIONS IN THE STATE IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) EACH BUSINESS LOCATION OWNED BY OR OPERATED BY THE BUSINESS OWNER OR OPERATOR SELLS FEWER THAN TWENTY-FIVE CASES OF THIRTY DOZEN SHELL EGGS PER WEEK;

(II) ALL BUSINESS LOCATIONS OWNED BY OR OPERATED BY THE BUSINESS OWNER OR OPERATOR COLLECTIVELY SELL FEWER THAN ONE HUNDRED CASES OF THIRTY DOZEN SHELL EGGS PER WEEK; AND

(III) THE BUSINESS OWNER OR OPERATOR IS NOT A FARM OWNER OR OPERATOR.

35-21-205. Defense. IT IS A DEFENSE IN A PROCEEDING TO ENFORCE THIS PART 2 THAT A BUSINESS OWNER OR OPERATOR RELIED IN GOOD FAITH UPON A WRITTEN CERTIFICATION BY THE SUPPLIER THAT THE SHELL EGG OR EGG PRODUCT WAS NOT DERIVED FROM AN EGG-LAYING HEN THAT WAS CONFINED IN A MANNER THAT CONFLICTS WITH THE STANDARDS IN SECTION 35-21-203 (1).

35-21-206. Penalty. (1) IF A FARM OWNER OR OPERATOR OR BUSINESS OWNER OR OPERATOR VIOLATES THIS PART 2, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS PER VIOLATION.

(2) IF THE COMMISSIONER IS UNABLE TO COLLECT A CIVIL PENALTY OR IF A FARM OWNER OR OPERATOR OR BUSINESS OWNER OR OPERATOR FAILS TO PAY ANY PORTION OF A CIVIL PENALTY IMPOSED UNDER THIS SECTION, THE COMMISSIONER MAY RECOVER THE AMOUNT OF THE PENALTY, PLUS COSTS AND ATTORNEY FEES, BY AN ACTION IN A COURT.

(3) THE COMMISSIONER SHALL NOT IMPOSE A CIVIL PENALTY UNLESS THE PERSON CHARGED IS GIVEN NOTICE AND OPPORTUNITY FOR A HEARING IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

35-21-207. Enforcement - rules. (1) THE COMMISSIONER SHALL ENFORCE THIS PART 2. A FARM OWNER OR OPERATOR OR A BUSINESS OWNER OR OPERATOR SHALL ALLOW THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE ACCESS DURING REGULAR BUSINESS HOURS TO THE FARM OR BUSINESS, VEHICLES, AND RECORDS PERTINENT TO ACTIVITIES REGULATED IN THIS PART 2.

(2) THE COMMISSIONER SHALL PROMULGATE RULES GOVERNING THE ENFORCEMENT OF THIS PART 2, INCLUDING RULES GOVERNING THE INSPECTION OF FARMS, SHELL EGGS, AND EGG PRODUCTS, TO ENSURE SHELL EGGS AND EGG PRODUCTS SOLD IN COLORADO ARE PRODUCED IN COMPLIANCE WITH THIS PART 2.

(3) THE COMMISSIONER MAY USE A GOVERNMENT OR PRIVATE INSPECTION OR

PROCESS VERIFICATION PROVIDER TO ENSURE COMPLIANCE WITH THIS PART 2. TO RELY ON A GOVERNMENT OR PRIVATE INSPECTION OR PROCESS VERIFICATION PROVIDER, THE COMMISSIONER MUST APPROVE THE SPECIFIC INSPECTION OR PROCESS VERIFICATION PROVIDER AS COMPETENT TO ENSURE COMPLIANCE WITH THIS PART 2 DURING BOTH PRODUCTION AND HANDLING OF SHELL EGGS AND EGG PRODUCTS.

35-21-208. Certification - repeal. (1) (a) To sell shell eggs and egg products, to offer to sell shell eggs or egg products, or to transport shell eggs or egg products for sale within the state:

(I) A farm owner or operator must obtain a certificate that the shell eggs or egg products are produced in compliance with this part 2 from the commissioner;

(II) A business owner or operator must obtain a copy of the certificate issued under subsection (1)(a)(I) of this section from a farm owner or operator that the shell eggs or egg products comply with this part 2. The business owner or operator shall retain the copy and provide the copy to the commissioner upon request.

(b) The commissioner shall certify shell eggs and egg products as compliant with this part 2 if:

(I) The enclosures for the egg-laying hens are inspected in accordance with the rules promulgated under section 35-21-207 (2); or

(II) The commissioner determines the shell eggs and egg products are accompanied with documentation proving the enclosures for the egg-laying hens have undergone government or private inspection and process verification services described in section 35-21-207 (3).

(2) The certification issued under this section expires at the end of the calendar year.

(3) (a) This section applies to the sale of, an offer to sell, or the transportation of shell eggs and egg products for sale within the state occurring on or after January 1, 2023.

(b) This subsection (3) is repealed, effective January 1, 2025.

35-21-209. Effects on other animal welfare laws. This part 2 does not limit or replace any other state statute or rule that protects the welfare of animals. This part 2 does not preempt a local governing body from adopting and enforcing its own animal welfare ordinance, rule, resolution, or charter provision that is more stringent than this part 2.

SECTION 2. In Colorado Revised Statutes, 35-1-106, **amend** (1)(p)(I) as follows:

35-1-106. Powers and duties of commission. (1) In addition to all other powers and duties conferred upon the commission by this article 1, the commission has the

following specific powers and duties:

(p) (I) In consultation with interested industry groups, to fix, assess, and collect fees in amounts sufficient to recover the department's direct and indirect costs incurred in carrying out and enforcing the provisions of articles 12, 13, 14, ~~21~~, 33, 36, 37, and 60 of this title 35, PART 1 OF ARTICLE 21 OF THIS TITLE 35, and part 2 of article 43 of this title 35.

SECTION 3. In Colorado Revised Statutes, 35-21-101, **amend** the introductory portion as follows:

35-21-101. Definitions. As used in this ~~article~~ PART 1, unless the context otherwise requires:

SECTION 4. In Colorado Revised Statutes, 35-21-104, **amend** (4)(j) as follows:

35-21-104. Licenses - application - fees - rules. (4) (j) For the fiscal year commencing on July 1, 2007, and for each subsequent fiscal year, the agricultural commission shall establish a fee schedule to cover all of the direct and indirect costs of administering and enforcing ~~the provisions of this article~~ THIS PART 1.

SECTION 5. In Colorado Revised Statutes, 35-21-105, **amend** (1) and (2)(a) as follows:

35-21-105. Exemption. (1) Except as provided in subsection (2) of this section, a person who produces and sells, only on the premises at which the eggs were produced, at a farmers' market, or through a community-supported agricultural organization, less than two hundred fifty dozen eggs per month is exempt from this ~~article~~ PART 1; except that such a producer may apply for a dealer's license and, upon compliance with this ~~article~~ PART 1, be issued a dealer's license.

(2) A person transporting eggs for sale at a farmers' market or similar venue under subsection (1) of this section shall:

(a) Comply with the transport requirements of section 35-21-103 (3) and any rules, including rules requiring refrigeration, promulgated under this ~~article~~ PART 1 regarding the safe transport and washing of eggs; and

SECTION 6. In Colorado Revised Statutes, 35-21-106, **amend** (1) as follows:

35-21-106. Rules - commissioner to enforce - procedure. (1) The commissioner is authorized to formulate rules relating to licensing, transporting, processing, labeling, sale, storage, inspection, and record keeping as the commissioner may deem proper and necessary for the furtherance and enforcement of this ~~article~~. ~~Such~~ PART 1. THE rules shall be promulgated in accordance with article 4 of title 24. ~~C.R.S.~~

SECTION 7. In Colorado Revised Statutes, **amend** 35-21-107 as follows:

35-21-107. Penalty. (1) Any person who violates any of the provisions of this ~~article~~ PART 1 is guilty of a misdemeanor. It is the duty of the commissioner to

notify the district attorney of the judicial district in which a violation occurs, and the district attorney of said district shall conduct such proceedings as may be necessary with the cooperation of the commissioner. Upon conviction in any court of competent jurisdiction, any person in violation of ~~any of the provisions of this article~~ THIS PART 1 shall be punished by a fine of not more than five hundred dollars. Each calendar day on which such a violation occurs shall constitute a separate violation. Fines and penalties imposed under this ~~article~~ PART 1 shall be collected and remitted as provided by law.

(2) After proper hearing as provided in article 4 of title 24, ~~C.R.S.~~, the commissioner may deny an application for licensure, place a licensee on probation, or restrict, suspend, revoke, or refuse to renew the license of a person who violates ~~any of the provisions of this article~~ THIS PART 1 or any rule adopted under this ~~article~~ PART 1. THE restriction, revocation, or suspension of or refusal to renew a license may be in addition to, or in lieu of, any penalties or fines imposed in subsection (1) of this section.

SECTION 8. In Colorado Revised Statutes, 35-21-107.5, **amend** (1)(a) as follows:

35-21-107.5. Civil penalties. (1) (a) The commissioner may impose a civil penalty on any person who violates ~~any provision of this article~~ THIS PART 1 or any rule adopted under this ~~article~~ PART 1. THE penalty ~~shall~~ MUST not exceed seven hundred fifty dollars per day per violation.

SECTION 9. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: July 1, 2020