

Enrolled
Senate Bill 1019

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

CHAPTER

AN ACT

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

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

SECTION 1. Sections 2 to 5 of this 2019 Act are added to and made a part of ORS 632.835 to 632.850.

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

SECTION 3. (1) Except as provided under subsection (2) of this section, a person may not buy, sell, offer to buy or sell, transport or offer to transport in intrastate commerce, or accept receipt of, an egg or egg product that was not produced in compliance with ORS 632.845.

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

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

SECTION 5. ORS 632.835 to 632.850 do not apply to:

(1) A commercial farm owner or operator with annual egg production from a flock of not more than 3,000 egg-laying hens; or

(2) Eggs produced by a commercial farm owner or operator described in subsection (1) of this section.

SECTION 6. ORS 632.835 is amended to read:

632.835. As used in ORS 632.835 to 632.850:

(1) "Cage-free housing system" means an indoor or outdoor controlled environment for egg-laying hens within which the hens:

(a) May roam unrestricted, other than by external walls;

(b) Are provided with enrichments that allow the hens to exhibit natural behavior, including, at a minimum, scratch areas, perches, nest boxes and dust bathing areas; and

(c) Are provided with care by farm employees who are standing somewhere within the hens' usable floor space.

[(1)] **(2)** "Commercial farm" means the land, buildings and support facilities that are used for the commercial production of animals or animal products used for food or fiber.

[(2)] **(3)** "Commercial farm owner or operator" means any person who owns or controls the operation of a commercial farm. "Commercial farm owner or operator" does not mean a contractor, consultant or nonmanagement employee.

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

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

[(5)] **(6)** "Egg products" has the meaning given that term in ORS 632.705, except that "egg products" does not include the following products when those products are prepared from [*inspected*] egg products or eggs **inspected by the United States Department of Agriculture, or by the State Department of Agriculture under a cooperative agreement with the United States Department of Agriculture:** [*and contain no more restricted eggs than are allowed in the official standards for United States Consumer Grade B shell eggs:*]

- (a) Freeze-dried products;
- (b) Imitation egg products;
- (c) Egg substitutes;
- (d) Dietary foods;
- (e) Dried no-bake custard mixes;
- (f) Eggnog mixes;
- (g) Acidic dressings;
- (h) Noodles;
- (i) Milk and egg dips;
- (j) Cake mixes;
- (k) French toast; [*and*]

(L) Balut; and

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

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

(8) "Total square feet":

(a) Means ground space plus elevated level or nearly level platforms to accommodate egg flow, upon which an egg-laying hen can roost.

(b) Does not include perches or ramps.

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

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

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

- (a) Be designed to promote humane welfare standards;
- (b) Be effective in protecting consumers from food-borne pathogens; [*and*]

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

- (c) Require that egg-laying hens be housed in a cage-free housing system; and**
- (d) Establish usable floor space requirements.**

(2) Except as provided under this subsection, the department shall adopt rules to require that enclosures provide egg-laying hens with usable floor space that equals or exceeds the

usable floor space required in United Egg Producers, Animal Husbandry Guidelines for U.S. Egg-Laying Flocks (2017) guidelines for cage-free housing. If a subsequent edition of the guidelines establishes a standard that requires more usable floor space than the standard set forth in the 2017 Edition of the guidelines, the department may adopt the higher standard.

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

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

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

[4] (5) The department may fix, assess and collect, or cause to be collected, from commercial farm owners or operators fees for the inspections performed by employees or agents of the department under subsection (3) of this section. The fees must have a uniform basis and must be in an amount reasonably necessary to cover the costs of the inspections and related administrative duties under ORS 632.835 to 632.850. The department shall adjust the fees under this subsection to meet any expenses necessary to carry out subsection (3) of this section and may prescribe a different fee scale for different localities. The department may prescribe a reasonable charge to be paid by commercial farm owners or operators for travel expenses and other related services if inspections under this section involve unusual cost to the department. Moneys from fees and charges collected by the department under this subsection must be deposited in the Department of Agriculture Service Fund and are continuously appropriated to the department to be used for the purpose of enforcing ORS 632.835 to 632.850.

SECTION 8. ORS 632.845 is amended to read:

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

(2) **Subsection (1) of this section does not apply to the confinement of an egg-laying hen:**

(a) **During medical research;**

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

(c) **During transportation or depopulation operations, if the confinement does not exceed seven days in any 18-month period;**

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

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

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

SECTION 9. Section 10, chapter 436, Oregon Laws 2011, is amended to read:

Sec. 10. The amendments to *[section 4 of this 2011 Act]* **ORS 632.840** by section 9 *[of this 2011 Act]*, **chapter 436, Oregon Laws 2011, and section 7 of this 2019 Act** become operative on January 1, *[2026]* **2024.**

SECTION 10. **No later than January 1, 2023, the State Department of Agriculture shall adopt rules, to become effective January 1, 2024, for administering and enforcing ORS 632.840, as amended by section 7 of this 2019 Act.**

SECTION 11. Section 10a, chapter 436, Oregon Laws 2011, is amended to read:

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

SECTION 12. **ORS 632.850 is repealed.**

SECTION 13. Section 3 of this 2019 Act, the amendments to ORS 632.835 and 632.845 by sections 6 and 8 of this 2019 Act and the repeal of ORS 632.850 by section 12 of this 2019 Act become operative on January 1, 2024.

Passed by Senate June 29, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 30, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State