

112TH CONGRESS  
2D SESSION

# H. R. 3798

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

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## 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.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Egg Products Inspec-  
5 tion Act Amendments of 2012”.

6 **SEC. 2. HEN HOUSING AND TREATMENT STANDARDS.**

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

9 (1) by redesignating subsection (a) as sub-  
10 section (c);

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

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

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

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

12          (6) by inserting before subsection (c), as redesi-  
13          gnated by paragraph (1), the following new sub-  
14          sections:

15          “(a) The term ‘adequate environmental enrichments’  
16          means adequate perch space, dust bathing or scratching  
17          areas, and nest space, as defined by the Secretary of Agri-  
18          culture, based on the best available science, including the  
19          most recent studies available at the time that the Sec-  
20          retary defines the term. The Secretary shall issue regula-  
21          tions defining this term not later than January 1, 2017,  
22          and the final regulations shall go into effect on December  
23          31, 2018.

24          “(b) The term ‘adequate housing-related labeling’  
25          means a conspicuous, legible marking on the front or top

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

4 “(1) ‘Eggs from free-range hens’ to indicate  
5 that the egg-laying hens from which the eggs or egg  
6 products were derived were, during egg production—

7 “(A) not housed in caging devices; and

8 “(B) provided with outdoor access.

9 “(2) ‘Eggs from cage-free hens’ to indicate that  
10 the egg-laying hens from which the eggs or egg  
11 products were derived were, during egg production,  
12 not housed in caging devices.

13 “(3) ‘Eggs from enriched cages’ to indicate that  
14 the egg-laying hens from which the eggs or egg  
15 products were derived were, during egg production,  
16 housed in caging devices that—

17 “(A) contain adequate environmental en-  
18 richments; and

19 “(B) provide the hens a minimum of 116  
20 square inches of individual floor space per  
21 brown hen and 101 square inches of individual  
22 floor space per white hen.

23 “(4) ‘Eggs from caged hens’ to indicate that  
24 the egg-laying hens from which the eggs or egg

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

3 “(A) do not contain adequate environ-  
4 mental enrichments; or

5 “(B) do not provide the hens a minimum  
6 of 116 square inches of individual floor space  
7 per brown hen and 101 square inches of indi-  
8 vidual floor space per white hen.”;

9 (7) by inserting after subsection (c), as redesign-  
10 nated by paragraph (1), the following new sub-  
11 sections:

12 “(d) The term ‘brown hen’ means a brown egg-laying  
13 hen used for commercial egg production.

14 “(e) The term ‘caging device’ means any cage, enclo-  
15 sure, or other device used for the housing of egg-laying  
16 hens for the production of eggs in commerce, but does not  
17 include an open barn or other fixed structure without in-  
18 ternal caging devices.”;

19 (8) by inserting after subsection (k), as redesign-  
20 nated by paragraph (2), the following new sub-  
21 sections:

22 “(l) The term ‘egg-laying hen’ means any female do-  
23 mesticated chicken, including white hens and brown hens,  
24 used for the commercial production of eggs for human  
25 consumption.

1       “(m) The term ‘existing caging device’ means any  
2 caging device that was continuously in use for the produc-  
3 tion of eggs in commerce up through and including De-  
4 cember 31, 2011.”;

5           (9) by inserting after subsection (o), as redesign-  
6 nated by paragraph (3), the following new sub-  
7 sections:

8       “(p) The term ‘feed-withdrawal molting’ means the  
9 practice of preventing food intake for the purpose of in-  
10 ducing egg-laying hens to molt.

11       “(q) The term ‘individual floor space’ means the  
12 amount of total floor space in a caging device available  
13 to each egg-laying hen in the device, which is calculated  
14 by measuring the total floor space of the caging device  
15 and dividing by the total number of egg-laying hens in  
16 the device.”;

17           (10) by inserting after subsection (t), as redesign-  
18 igned by paragraph (4), the following new sub-  
19 section:

20       “(u) The term ‘new caging device’ means any caging  
21 device that was not continuously in use for the production  
22 of eggs in commerce on or before December 31, 2011.”;  
23 and

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

1 “(jj) The term ‘water-withdrawal molting’ means the  
2 practice of preventing water intake for the purpose of in-  
3 ducing egg-laying hens to molt.

4 “(kk) The term ‘white hen’ means a white egg-laying  
5 hen used for commercial egg production.”.

6 (b) HOUSING AND TREATMENT OF EGG-LAYING  
7 HENS.—The Egg Products Inspection Act (21 U.S.C.  
8 1031 et seq.) is amended by inserting after section 7 the  
9 following new sections:

10 **“§ 7A. Housing and treatment of egg-laying hens**

11 “(a) ENVIRONMENTAL ENRICHMENTS.—

12 “(1) EXISTING CAGING DEVICES.—All existing  
13 caging devices must provide egg-laying hens housed  
14 therein, beginning 15 years after the date of enact-  
15 ment of the Egg Products Inspection Act Amend-  
16 ments of 2012, adequate environmental enrichments.

17 “(2) NEW CAGING DEVICES.—All new caging  
18 devices must provide egg-laying hens housed therein,  
19 beginning nine years after the date of enactment of  
20 the Egg Products Inspection Act Amendments of  
21 2012, adequate environmental enrichments.

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

1 “(b) FLOOR SPACE.—

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

5 “(A) beginning four years after the date of  
6 enactment of the Egg Products Inspection Act  
7 Amendments of 2012 and until the date that is  
8 15 years after the date of enactment of the Egg  
9 Products Inspection Act Amendments of 2012,  
10 a minimum of 76 square inches of individual  
11 floor space per brown hen and 67 square inches  
12 of individual floor space per white hen; and

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

19 “(2) NEW CAGING DEVICES.—Except as pro-  
20 vided in paragraph (3), all new caging devices must  
21 provide egg-laying hens housed therein—

22 “(A) beginning three years after the date  
23 of enactment of the Egg Products Inspection  
24 Act Amendments of 2012 and until the date  
25 that is six years after the date of enactment of

1 the Egg Products Inspection Act Amendments  
2 of 2012, a minimum of 90 square inches of in-  
3 dividual floor space per brown hen and 78  
4 square inches of individual floor space per white  
5 hen;

6 “(B) beginning six years after the date of  
7 enactment of the Egg Products Inspection Act  
8 Amendments of 2012 and until the date that is  
9 nine years after the date of enactment of the  
10 Egg Products Inspection Act Amendments of  
11 2012, a minimum of 102 square inches of indi-  
12 vidual floor space per brown hen and 90 square  
13 inches of individual floor space per white hen;

14 “(C) beginning nine years after the date of  
15 enactment of the Egg Products Inspection Act  
16 Amendments of 2012 and until the date that is  
17 12 years after the date of enactment of the Egg  
18 Products Inspection Act Amendments of 2012,  
19 a minimum of 116 square inches of individual  
20 floor space per brown hen and 101 square  
21 inches of individual floor space per white hen;

22 “(D) beginning 12 years after the date of  
23 enactment of the Egg Products Inspection Act  
24 Amendments of 2012 and until the date that is  
25 15 years after the date of enactment of the Egg



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

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

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

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

20 “(B) beginning January 1, 2021, a min-  
21 imum of 144 square inches of individual floor  
22 space per brown hen and 124 square inches of  
23 individual floor space per white hen.

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

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

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

10 “(e) EUTHANASIA.—Beginning two years after the  
11 date of enactment of the Egg Products Inspection Act  
12 Amendments of 2012, an egg handler shall provide, when  
13 necessary, all egg-laying hens under his ownership or con-  
14 trol with euthanasia that is humane and uses a method  
15 deemed ‘Acceptable’ by the American Veterinary Medical  
16 Association.

17 “(f) PROHIBITION ON NEW UNENRICHABLE  
18 CAGES.—No person shall build, construct, implement, or  
19 place into operation any new caging device for the produc-  
20 tion of eggs to be sold in commerce unless the device—

21 “(1) provides the egg-laying hens to be con-  
22 tained therein a minimum of 76 square inches of in-  
23 dividual floor space per brown hen or 67 square  
24 inches of individual floor space per white hen; and

1           “(2) is capable of being adapted to accommo-  
2           date adequate environmental enrichments.

3           “(g) EXEMPTIONS.—

4           “(1) RECENTLY-INSTALLED EXISTING CAGING  
5           DEVICES.—The requirements contained in sub-  
6           sections (a)(1) and (b)(1)(B) shall not apply to any  
7           existing caging device that was first placed into op-  
8           eration between January 1, 2008, and December 31,  
9           2011. This exemption shall expire 18 years after the  
10          date of enactment of the Egg Products Inspection  
11          Act Amendments of 2012, at which time the require-  
12          ments contained in subsections (a)(1) and (b)(1)(B)  
13          shall apply to all existing caging devices.

14          “(2) HENS ALREADY IN PRODUCTION.—The re-  
15          quirements contained in subsections (a)(1), (a)(2),  
16          (b)(1)(B), and (b)(2) shall not apply to any caging  
17          device containing egg-laying hens who are already in  
18          egg production on the date that such requirement  
19          takes effect. This exemption shall expire on the date  
20          that such egg-laying hens are removed from egg pro-  
21          duction.

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

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

3       **“§ 7B. Phase-in conversion requirements**

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

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

22       “(c) FINAL CONVERSION PHASE.—As of December  
23 31, 2029, all egg-laying hens confined in caging devices  
24 shall be provided adequate environmental enrichments and  
25 a minimum of 144 square inches of individual floor space

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

3 “(d) COMPLIANCE.—

4 “(1) At the end of six years after the date of  
5 enactment of the Egg Products Inspection Act  
6 Amendments of 2012, the Secretary shall determine,  
7 after having reviewed and analyzed the results of an  
8 independent, national survey of caging devices con-  
9 ducted in 2018, whether the requirements of sub-  
10 section (a) have been met. If the Secretary finds  
11 that the requirements of subsection (a) have not  
12 been met, then beginning January 1, 2020, the floor  
13 space requirements (irrespective of the date such re-  
14 quirements expire) related to new caging devices  
15 contained in subsection (b)(2)(B) of section 7A shall  
16 apply to existing caging devices placed into operation  
17 prior to January 1, 1995.

18 “(2) At the end of 12 years after the date of  
19 enactment of the Egg Products Inspection Act  
20 Amendments of 2012, and again after December 31,  
21 2029, the Secretary shall submit to the Committee  
22 on Agriculture of the House of Representatives and  
23 the Committee on Agriculture, Nutrition, and For-  
24 estry of the Senate a report on compliance with sub-  
25 sections (b) and (c).

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

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

6           (1) in subsection (d), by inserting “(other than  
7           requirements with respect to housing, treatment,  
8           and house-related labeling)” after “as he deems ap-  
9           propriate to assure compliance with such require-  
10          ments”; and

11          (2) in subsection (e)—

12           (A) in paragraph (1)—

13           (i) in subparagraph (A), by striking  
14           “and”;

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

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

19           “(B) are derived from egg-laying hens  
20           housed and treated in compliance with section  
21           7A; and”; and

22           (iv) in subparagraph (C), as redesign-  
23           ated by clause (ii), by inserting “adequate  
24           housing-related labeling and” after “con-  
25           tain”;

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

6 (C) in paragraph (3), by inserting “(other  
7 than requirements with respect to housing,  
8 treatment, and housing-related labeling)” after  
9 “to ensure compliance with the requirements of  
10 paragraph (1)”; and

11 (D) in paragraph (4), by striking “with a  
12 flock of not more than 3,000 layers.” and in-  
13 serting “who buys, sells, handles, or processes  
14 eggs or egg products solely from one flock of  
15 not more than 3,000 egg-laying hens.”.

16 (d) LABELING.—Section 7 of the Egg Products In-  
17 spection Act of 1970 (21 U.S.C. 1036) is amended in sub-  
18 section (a) by inserting “adequate housing-related label-  
19 ing,” after “plant where the products were processed,”.

20 (e) LIMITATION ON EXEMPTIONS BY SECRETARY.—  
21 Section 15 of the Egg Products Inspection Act of 1970  
22 (21 U.S.C. 1044) is amended in subsection (a) by insert-  
23 ing “, not including subsection (c) of section 8,” after “ex-  
24 empt from specific provisions”.

1 (f) IMPORTS.—Section 17 of the Egg Products In-  
2 spection Act of 1970 (21 U.S.C. 1046) is amended in  
3 paragraph (2) of subsection (a) by striking “subdivision  
4 thereof and are labeled and packaged” and inserting “sub-  
5 division thereof; and no eggs or egg products capable of  
6 use as human food shall be imported into the United  
7 States unless they are produced, labeled, and packaged”.

8 **SEC. 3. ENFORCEMENT OF HEN HOUSING AND TREATMENT**  
9 **STANDARDS.**

10 (a) IN GENERAL.—Section 8 of the Egg Products In-  
11 spection Act (21 U.S.C. 1037) is amended—

12 (1) by redesignating subsections (c), (d), (e),  
13 and (f) as subsections (d), (e), (f), and (g), respec-  
14 tively;

15 (2) by inserting after subsection (b) the fol-  
16 lowing new subsection:

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

22 “(2) No person shall buy, sell, or transport, or  
23 offer to buy or sell, or offer or receive for transpor-  
24 tation, in any business or commerce any eggs or egg  
25 products derived from egg-laying hens unless the



1 container or package, including any immediate con-  
2 tainer, of the eggs or egg products, beginning one  
3 year after the date of enactment of the Egg Prod-  
4 ucts Inspection Act Amendments of 2012, contains  
5 adequate housing-related labeling.

6 “(3) No person shall buy, sell, or transport, or  
7 offer to buy or sell, or offer or receive for transpor-  
8 tation, in any business or commerce, in California,  
9 any eggs or egg products derived from egg-laying  
10 hens unless the egg-laying hens are—

11 “(A) provided—

12 “(i) beginning January 1, 2015, and  
13 through December 31, 2020, a minimum  
14 of 134 square inches of individual floor  
15 space per brown hen and 116 square  
16 inches of individual floor space per white  
17 hen; and

18 “(ii) beginning January 1, 2021, a  
19 minimum of 144 square inches of indi-  
20 vidual floor space per brown hen and 124  
21 square inches of individual floor space per  
22 white hen; and

23 “(B) provided, beginning December 31,  
24 2018, adequate environmental enrichments.”;  
25 and

1           (3) in subsection (e), as redesignated by para-  
2           graph (1), by inserting “7A,” after “section”.

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

11 **SEC. 4. STATE AND LOCAL AUTHORITY.**

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

14           (a) by redesignating subsections (c) and (d) as sub-  
15 sections (d) and (e), respectively;

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

18           “(c) **PROHIBITION AGAINST ADDITIONAL OR DIF-**  
19 **FERENT REQUIREMENTS THAN FEDERAL REQUIRE-**  
20 **MENTS RELATED TO MINIMUM SPACE ALLOTMENTS FOR**  
21 **HOUSING EGG-LAYING HENS IN COMMERCIAL EGG PRO-**  
22 **DUCTION.**—Requirements within the scope of this chapter  
23 with respect to minimum floor space allotments or enrich-  
24 ments for egg-laying hens housed in commercial egg pro-  
25 duction which are in addition to or different than those

1 made under this chapter may not be imposed by any State  
2 or local jurisdiction. Otherwise the provisions of this chap-  
3 ter shall not invalidate any law or other provisions of any  
4 State or other jurisdiction in the absence of a conflict with  
5 this chapter.”; and

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

8 “(f) **ROLE OF CALIFORNIA DEPARTMENT OF FOOD**  
9 **AND AGRICULTURE.**—With respect to eggs produced,  
10 shipped, handled, transported or received in California  
11 prior to the date that is 18 years after the date of enact-  
12 ment of the Egg Products Inspection Act Amendments of  
13 2012, the Secretary shall delegate to the California De-  
14 partment of Food and Agriculture the authority to enforce  
15 sections 7A(a)(3), 7A(b)(3), 8(c)(3), and 11.”.

16 **SEC. 5. EFFECTIVE DATE.**

17 This Act shall take effect upon enactment.

○