

112TH CONGRESS
2D SESSION

S. 3239

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

IN THE SENATE OF THE UNITED STATES

MAY 24, 2012

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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 redes-
 13 ignated 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 ignated 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 offer
 23 to buy or sell, or offer or receive for transportation, in
 24 any business or commerce any eggs or egg products de-
 25 rived from egg-laying hens unless the container or pack-

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

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

10 “(A) provided—

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

16 “(ii) beginning January 1, 2021, a min-
 17 imum of 144 square inches of individual floor
 18 space per brown hen and 124 square inches of
 19 individual floor space per white hen; and

20 “(B) provided, beginning December 31, 2018,
 21 adequate environmental enrichments.”; and

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

24 (b) LIMITATION ON AUTHORITY OF SECRETARY OF
 25 HEALTH AND HUMAN SERVICES.—Section 13 of the Egg

1 Products Inspection Act of 1970 (21 U.S.C. 1042) is
 2 amended by inserting “(with respect to violations other
 3 than those related to requirements with respect to hous-
 4 ing, treatment, and housing-related labeling) the” after
 5 “Before any violation of this chapter is reported by the
 6 Secretary of Agriculture or”.

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

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

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

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

14 “(c) PROHIBITION AGAINST ADDITIONAL OR DIF-
 15 FERENT REQUIREMENTS THAN FEDERAL REQUIRE-
 16 MENTS RELATED TO MINIMUM SPACE ALLOTMENTS FOR
 17 HOUSING EGG-LAYING HENS IN COMMERCIAL EGG PRO-
 18 Duction.—Requirements within the scope of this chapter
 19 with respect to minimum floor space allotments or enrich-
 20 ments for egg-laying hens housed in commercial egg pro-
 21 duction which are in addition to or different than those
 22 made under this chapter may not be imposed by any State
 23 or local jurisdiction. Otherwise the provisions of this chap-
 24 ter shall not invalidate any law or other provisions of any

1 State or other jurisdiction in the absence of a conflict with
2 this chapter.”; and

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

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

13 **SEC. 5. EFFECTIVE DATE.**

14 This Act shall take effect upon enactment.

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