

## SB0147S01 compared with SB0147

~~text~~ shows text that was in SB0147 but was deleted in SB0147S01.

text shows text that was not in SB0147 but was inserted into SB0147S01.

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Senator Scott D. Sandall proposes the following substitute bill:

### CONFINEMENT OF ~~EGG-LAYING~~EGG-LAYING HENS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill makes changes to the Agricultural Code regarding the confinement of egg-laying hens.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ beginning January 1, 2025, prohibits farm owners and operators from confining egg-laying hens in an enclosure that is not a cage-free housing system or that has less usable floor space per hen than required by specific industry guidelines, with certain exceptions;
- ▶ provides a defense for a person who relies in good faith upon a written certification that eggs or egg products are not derived from egg-laying hens confined in conflict

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with the prescribed standards; and

- ▶ designates the Department of Agriculture and Food as the entity to enforce the provisions of this bill ~~{; and};~~

~~{ → imposes certification requirements for farm owners and operators, and business owners and operators, who sell shell eggs or egg products within the state.~~

### ~~‡~~ Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

**4-4a-101**, Utah Code Annotated 1953

**4-4a-102**, Utah Code Annotated 1953

**4-4a-103**, Utah Code Annotated 1953

**4-4a-104**, Utah Code Annotated 1953

**4-4a-105**, Utah Code Annotated 1953

**4-4a-106**, Utah Code Annotated 1953

**4-4a-107**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **4-4a-101** is enacted to read:

#### **CHAPTER 4a. CONFINEMENT OF EGG-LAYING HENS**

##### **4-4a-101. Title.**

This chapter is known as "Confinement of Egg-Laying Hens."

Section 2. Section **4-4a-102** is enacted to read:

##### **4-4a-102. Definitions.**

As used in this chapter:

(1) "Business owner or operator" means a person who owns a controlling interest in or controls the operations of a business.

(2) (a) "Cage-free housing system" means an indoor or outdoor controlled environment for egg-laying hens where:

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(i) for an indoor environment, the egg-laying hens are free to roam unrestricted except by the following:

(A) exterior walls; or

(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 at least the amount of usable floor space per hen required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing;

(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, to the extent the system is a system described in Subsection (2)(a) and is not excluded by Subsection (2)(c), a multi-tiered aviary, partially slatted system, single-level all-litter floor system, and any future system that is a system described in Subsection (2)(a) and is not excluded by Subsection(2)(c).

(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) "Egg-laying hen" means a female domesticated chicken kept for the purpose of commercial egg production.

(4) (a) "Egg ~~{product}~~products" means ~~{an egg}~~eggs of an egg-laying hen broken from the ~~{shell}~~shells that:

(i) is intended for use as human food;

(ii) is in liquid, solid, dried, or frozen form;

(iii) is raw or cooked; and

(iv) has the ~~{yolk}~~yolks and ~~{white}~~whites in their natural proportions, or has the ~~{yolk}~~yolks and ~~{white}~~whites separated, mixed, or mixed and strained.

(b) "Egg ~~{product}~~products" does not include combination food products, including:

(i) pancake mix, cake mix, cookies, pizza, cookie dough, ice cream; or

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(ii) a similar food product that contains an ingredient other than a product described in Subsection (4)(a), sugar, salt, water, seasoning, coloring, flavoring, preservatives, stabilizers, or similar food additives.

(5) "Enclosure" means a structure used to confine an egg-laying hen.

(6) (a) "Farm" means the land, buildings, 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 at which mandatory inspection is maintained under the federal Egg Products Inspection Act, 21 U.S.C. Sec. 1031 et seq.

(7) "Farm owner or operator" means a person that owns a controlling interest in a farm or controls the operations of a farm.

(8) "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.

(9) "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.

(10) "Sale" means the commercial sale, by a business, of a shell egg or egg product that is subject to this chapter, but does not include a sale undertaken at an official plant at which mandatory inspection is maintained under the federal Egg Products Inspection Act, 21 U.S.C. Sec. 1031 et seq.

(11) "Shell egg" means a whole egg of an egg-laying hen in the egg's shell form, intended for use as human food.

(12) "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.

(13) (a) "Usable floor space" 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 total number of egg-laying hens in that enclosure.

(b) "Usable floor space" includes both ground space and elevated level or nearly level flat platforms upon which hens can roost, but does not include perches or ramps.

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Section 3. Section **4-4a-103** is enacted to read:

### **4-4a-103. Prohibitions.**

(1) Beginning on January 1, 2025, a farm owner or operator may not knowingly confine an egg-laying hen in an enclosure:

(a) that is not a cage-free housing system; or

(b) that has less than the amount of usable floor space per hen as required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing.

(2) (a) Beginning on January 1, 2025, a business owner or operator may not knowingly sell or transport for end 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 ~~prohibited~~ that conflicts with the standards described in ~~this chapter~~ Subsection (1).

(b) For purposes of this chapter, a sale occurs at the location where a buyer takes physical possession of the item.

Section 4. Section **4-4a-104** is enacted to read:

### **4-4a-104. ~~Exemptions~~ Confinement exemptions.**

(1) Section 4-4a-103 does not apply to an egg-laying hen:

(a) used for medical research;

(b) during examination, testing, individual treatment, or operation for veterinary purposes, but only if performed by or under the direct supervision of a licensed veterinarian;

(c) during transportation;

(d) at state or county fair exhibitions, 4-H programs, and similar exhibitions;

(e) during slaughter conducted in accordance with applicable laws, rules, and regulations; or

(f) kept for temporary animal husbandry purposes of no more than six hours in any 24-hour period and no more than 24 hours total in any 30-day period.

Section 5. Section **4-4a-105** is enacted to read:

### **4-4a-105. De minimis exemptions for shell eggs.**

~~(2)~~(1) This chapter does not apply to the production in the state, sale in the state, or transport for end sale in the state of shell eggs ~~by~~ sourced from a farm owner or operator with fewer than 3,000 egg-laying hens.

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~~(3)~~(2) This chapter does not apply to the sale of uncooked, one-dozen carton packed, medium size shell eggs as defined in the July 20, 2000, United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., if:

(a) a business owner or operator sells the eggs directly to a household consumer exclusively for offsite use by the consumer, a member of the consumer's household, or the consumer's nonpaying guest or employee; and

(b) (i) the eggs described in this Subsection (3) are 10% or less of the business owner or operator's total ~~sales~~ **number of eggs sold** each year in Utah; or

(ii) the eggs described in this Subsection (3) are sold from a business location that sells fewer than 15 cases of 30 dozen shell eggs per week.

~~{~~ ~~Section 5. Section 4-4a-105 is enacted to read:~~

~~4-4a-105. **Defense.**~~

~~It is a defense to an action to enforce this chapter that a business owner or operator relied in good faith upon a written certification by the farm owner or operator that the shell egg or egg product was not derived from an egg-laying hen that was confined in a manner that conflicts with Section 4-4a-103.~~

~~‡~~ Section 6. Section 4-4a-106 is enacted to read:

~~4-4a-106. **Enforcement.**~~

~~‡ **Defense.**~~

It is a defense to an action to enforce this chapter that a business owner or operator relied in good faith upon a written certification by the farm owner or operator 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 described in Subsection 4-4a-103(1).

Section 7. Section 4-4a-107 is enacted to read:

4-4a-107. **Enforcement.**

(1) The department shall enforce this chapter.

(2) A person subject to this chapter shall allow the department access during regular business hours to facilities and records pertinent to activities subject to this chapter.

(3) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the inspection of farms, shell eggs, and egg products to ensure compliance with this chapter.

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(4) (a) The department may use an inspection provider or process verification provider to ensure compliance with this chapter.

(b) To rely on an inspection provider or process verification provider, the department must approve the specific inspection provider or process verification provider as competent to ensure compliance with this chapter during both production and handling of shell eggs and egg products.

(5) (a) If the department determines that a person subject to this chapter is in violation of a provision of this chapter or a rule adopted under this chapter, the department shall provide the person with a written notice that:

(i) describes each violation identified by the department; and

(ii) states a reasonable deadline by which the person is required to cure the violation.

(b) If a person who receives a notice issued under Subsection (5)(a) does not cure a violation identified in the notice before the deadline stated in the notice, the department may impose a civil fine of \$100 per written notice, regardless of the number of violations identified in the notice.

(c) If a violation is not cured after the department provides a person with written notice of the violation and a reasonable opportunity to cure, the department may seek a temporary restraining order or permanent injunction to prevent further violation of this chapter.

~~{ Section 7. Section 4-4a-107 is enacted to read:~~

~~—— 4-4a-107. Relationship to other provisions.~~

~~—— The provisions of this chapter are in addition to, and not in lieu of, any other laws or rules protecting animal welfare. State and local authorities are not prohibited by this chapter from adopting and enforcing animal welfare laws or rules that are more stringent than this chapter.~~

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