

SENATE No. 2603

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

SENATE, December 20, 2021

Report of the committee of conference on the disagreeing votes of the two branches with reference to the House amendment to the Senate Bill upgrading hen welfare and establishing uniform cage-free standards (Senate, No. 2481) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4194; by inserting an emergency preamble and striking out the title and inserting a new title),-- reports, a "Bill further regulating hen welfare and establishing uniform cage-free standards (Senate, No. 2603).

For the Committee:

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The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
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An Act further regulating hen welfare and establishing uniform cage-free standards.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to ensure hen welfare and establish uniform cage-free standards, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Clause (A) of section 3 of chapter 333 of the acts of 2016 is hereby
2 amended by inserting after the word “egg” the following words:- and other egg products.

3 SECTION 2. Clause (G) of section 4 of said chapter 333 is hereby amended by inserting
4 after the word “period” the following words:- ; provided, however, that in the case of egg-laying
5 hens, for not more than 24 hours total in any 30-day period.

6 SECTION 3. Said chapter 333 is hereby further amended by striking out section 5 and
7 inserting in place thereof the following section:-

8 Section 5. For purposes of this act, the following terms shall, unless the context requires
9 otherwise, have the following meanings:

10 “Breeding pig”, any female pig of the porcine species kept for the purpose of commercial
11 breeding.

12 “Business owner or operator”, any person who owns or controls the operations of a
13 business.

14 “Cage-free housing system”, an indoor or outdoor controlled environment for egg-laying
15 hens within which hens are free to roam unrestricted, are provided enrichments that allow them
16 to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes and dust
17 bathing areas, and within which farm employees can provide care while standing within the
18 hens’ usable floor space; provided, however, that “cage-free housing system” shall include, to
19 the extent that such systems comply with the requirements of this definition, multi-tiered
20 aviaries, partially-slatted systems, single-level all litter floor systems and any future systems that
21 will comply with the requirements of this definition; provided further, that “cage-free housing
22 system” shall not include systems commonly described as “battery cages”, “colony cages”,
23 “enriched cages”, “enriched colony cages”, “modified cages”, “convertible cages” or “furnished
24 cages” or other similar cage systems.

25 “Calf raised for veal”, any calf of the bovine species kept for the purpose of commercial
26 production of veal meat.

27 “Confined in a cruel manner”, confining: (i) a calf raised for veal or a breeding pig in a
28 manner that prevents the animal from lying down, standing up, fully extending the animal’s
29 limbs or turning around freely; or (ii) an egg-laying hen in an enclosure other than a cage-free
30 housing system or with less than:

31 (A) 1 square foot of usable floor space per hen in multi-tiered aviaries, partially-slatted
32 cage-free housing systems or any other cage-free housing system that provides hens with
33 unfettered access to vertical space; or

34 (B) 1.5 square feet of usable floor space per hen in single-level, all-litter floor cage-free
35 housing systems or any other cage-free housing system that does not provide hens with
36 unfettered access to vertical space.

37 “Covered animal”, any breeding pig, calf raised for veal or egg-laying hen that is kept on
38 a farm.

39 “Egg-laying hen”, any female domesticated chicken, turkey, duck, goose or guinea fowl
40 kept for the purpose of commercial egg production.

41 “Egg products”, eggs of an egg-laying hen broken from the shells, intended for human
42 food, whether in liquid, solid, dried or frozen form, whether raw or cooked, and with the yolks
43 and whites in their natural proportions or with the yolks and whites separated, mixed or mixed
44 and strained; provided, however, that “egg products” shall not include combination food
45 products, including pancake mixes, cake mixes, cookies, pizzas, cookie dough, ice cream or
46 other similar food products that are comprised of more than egg products, sugar, salt, water,
47 seasoning, coloring, flavoring, preservatives, stabilizers and similar food additives.

48 “Enclosure”, any cage, crate or other structure used to confine a covered animal or
49 animals; provided, however, that “enclosure” shall include what is commonly described as a
50 “gestation crate” or “stall” for pigs during pregnancy, a “veal crate” for calves raised for veal and
51 a “battery cage”, “enriched cage” or “colony cage” for egg-laying hens.

52 “Farm”, the land, building, support facilities and other equipment that are wholly or
53 partially used for the commercial production of animals or animal products used for food;
54 provided, however, that “farm” shall not include live animal markets, establishments at which
55 inspection is provided under the Federal Meat Inspection Act or official plants at which
56 mandatory inspection is maintained under the federal Egg Products Inspection Act.

57 “Farm owner or operator”, any person who owns or controls the operations of a farm.

58 “Fully extending the animal’s limbs”, fully extending all limbs without touching the side
59 of an enclosure.

60 “Meat”, the part of the muscle of any cattle, sheep, swine or goats, which is skeletal or
61 which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without
62 the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve and blood
63 vessels which normally accompany the muscle tissue and which are not separated from it in the
64 process of dressing; provided, however, that “meat” shall not include the muscle found in the
65 lips, snout or ears.

66 “Multi-tiered aviary”, a cage-free housing system in which hens have unfettered access to
67 multiple elevated platforms that provide hens with usable floor space both on top of and
68 underneath the platforms.

69 “Partially-slatted system”, a cage-free housing system in which hens have unfettered
70 access to elevated flat platforms under which manure drops through the flooring to a pit or litter
71 removal belt below.

72 “Person”, any individual, firm, partnership, joint venture, limited liability corporation,
73 estate, trust, receiver, syndicate, association or other legal entity.

74 “Pork meat”, meat of a pig of the porcine species intended for use as human food.

75 “Sale”, a commercial sale by a business that sells any item covered by section 3;
76 provided, however, that “sale” shall not include any sale undertaken at an establishment at which
77 inspection is provided under the Federal Meat Inspection Act or any sale undertaken at an
78 official plant at which mandatory inspection is maintained under the federal Egg Products
79 Inspection Act; provided further, that for purposes of this section, a “sale” shall be deemed to
80 occur at the location where the buyer takes physical possession of an item covered by said
81 section 3.

82 “Shell egg”, a whole egg of an egg-laying hen in its shell form and intended for use as
83 human food.

84 “Single-level all litter floor system”, a cage-free housing system bedded with litter and in
85 which hens have limited or no access to elevated flat platforms.

86 “Turning around freely”, turning in a complete circle without any impediment, including
87 a tether, and without touching the side of an enclosure or another animal.

88 “Uncooked”, requiring cooking prior to human consumption.

89 “Usable floor space”, the total square footage of floor space provided to each egg-laying
90 hen, as calculated by dividing the total square footage of floor space provided to the hens in an
91 enclosure by the number of hens in that enclosure; provided, however, that “usable floor space”

92 shall include both ground space and elevated level or nearly level flat platforms upon which hens
93 can roost; provided further, that “usable floor space” shall not include perches or ramps.

94 “Veal meat”, meat of a calf raised for veal and intended for use as human food.

95 “Whole pork meat”, any uncooked cut of pork, including bacon, ham, chop, ribs, riblet,
96 loin, shank, leg, roast, brisket, steak, sirloin or cutlet, that is comprised entirely of pork meat,
97 except for seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives;
98 provided, however, that “whole pork meat” shall not include combination food products,
99 including soups, sandwiches, pizzas, hot dogs or other similar processed or prepared food
100 products, that are comprised of more than pork meat, seasoning, curing agents, coloring,
101 flavoring, preservatives and similar meat additives.

102 “Whole veal meat”, any uncooked cut of veal, including chop, ribs, riblet, loin, shank,
103 leg, roast, brisket, steak, sirloin or cutlet, that is comprised entirely of veal meat, except for
104 seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives; provided,
105 however, that “whole veal meat” shall not include combination food products, including soups,
106 sandwiches, pizzas, hot dogs or similar processed or prepared food products, that are comprised
107 of more than veal meat, seasoning, curing agents, coloring, flavoring, preservatives and similar
108 meat additives.

109 SECTION 4. Said chapter 333 is hereby further amended by striking out section 7 and
110 inserting in place thereof the following section:-

111 Section 7. It shall be a defense to any action to enforce this act that a business owner or
112 operator relied in good faith upon a written certification or guarantee by the supplier that the
113 shell egg, egg products, whole pork meat or whole veal meat at issue was not derived from a

114 covered animal that was confined in a cruel manner or from the immediate offspring of a female
115 pig that was confined in a cruel manner.

116 SECTION 5. Said chapter 333 is hereby further amended by striking out section 10 and
117 inserting in place thereof the following section:-

118 Section 10. The department of agricultural resources, in consultation with the attorney
119 general, shall promulgate rules and regulations for the implementation of this act not more than 6
120 months after the effective date of this act. Any authorized use of third-party validators in such
121 rules or regulations to assist with compliance under this act shall be jointly approved by the
122 secretary of energy and environmental affairs and the attorney general. SECTION 6. Said
123 chapter 333 is hereby further amended by striking out section 11 and inserting in place thereof
124 the following 2 sections:-

125 Section 11. Section 2, clause (A) and clause (B) of section 3 and sections 4 to 7,
126 inclusive, shall take effect on January 1, 2022.

127 Section 12. Clause (C) of section 3 shall take effect on August 15, 2022.

128 SECTION 7. Notwithstanding any general or special law to the contrary, the provisions
129 of 940 CMR 36 or any other existing regulations promulgated by the attorney general pursuant to
130 section 10 of chapter 333 of the acts of 2016 as of December 20, 2021 that are not inconsistent
131 with this act shall remain in effect and the attorney general shall have the authority to amend
132 such regulations until such time as the regulations promulgated pursuant to said section 10 of
133 said chapter 333, as inserted by section 5, by the department of agricultural resources are
134 published in the state register.