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PROPOSITION **12** ESTABLISHES NEW STANDARDS FOR CONFINEMENT OF SPECIFIED FARM ANIMALS; BANS SALE OF NONCOMPLYING PRODUCTS. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

The text of this measure can be found on the Secretary of State’s website at <http://voterguide.sos.ca.gov>.

- Establishes new minimum space requirements for confining veal calves, breeding pigs, and egg-laying hens.
- Requires egg-laying hens be raised in cage-free environment after December 31, 2021.
- Prohibits certain commercial sales of specified meat and egg products derived from animals confined in noncomplying manner.
- Defines sales violations as unfair competition.
- Creates good faith defense for sellers relying upon written certification by suppliers that meat and egg products comply with new confinement standards.
- Requires State of California to issue implementing regulations.

SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Potential decrease in state income tax revenues from farm businesses, likely not more than several million dollars annually.
- State costs up to \$10 million annually to enforce the measure.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Agriculture Is a Major Industry in California. California farms produce more food—such as fruit, vegetables, nuts, meat, and eggs—than in any other state. Californians also buy food produced in other states, including most of the eggs and pork they eat. The California Department of Food and Agriculture (CDFA) is responsible for promoting California agriculture and overseeing animal health and food safety.

State Law Bans Cruelty to Animals. For over a century, the state has had laws banning the mistreatment of animals, including farm animals. For example, anyone who keeps an animal in an enclosed area is required to provide it with an exercise area and give it access to shelter, food, and water. Depending on the specific violation of these requirements, a person could be found guilty of a misdemeanor or felony, either of which is punishable by a fine, imprisonment, or both.

Farm Animal Practices Are Changing. There has been growing public interest in the treatment of farm animals. In particular, concerns have been expressed about keeping farm animals in cages and crates. Partly in response to these concerns, various animal farming associations have developed guidelines and best practices to improve the care and handling of farm animals. Also in response to these concerns, many major grocery stores, restaurants, and other companies have announced that they are moving towards requiring that their food suppliers give farm animals more space to move around (for example, by only purchasing eggs from farmers who use “cage-free” housing for hens).

Proposition 2 (2008) Created Standards for Housing Certain Farm Animals. Proposition 2 generally prohibits California farmers from housing pregnant pigs, calves raised for veal, and egg-laying hens in cages or crates that do not allow them to turn around freely, lie down, stand up, and fully extend their limbs. Under Proposition 2, anyone who violates this law is guilty of a misdemeanor.

State Law Banned the Sale of Eggs That Do Not Meet Housing Standards. A state law passed after Proposition 2 made it illegal for businesses in California to sell eggs that they knew came from hens housed in ways that do not meet Proposition 2’s standards for egg-laying hens. This law applies to eggs from California or other states. Any person who violates this law is guilty of a misdemeanor. (The law does not cover *liquid* eggs, which are egg yolks and whites that have been removed from their shells and processed for sale.)

PROPOSAL

Creates New Standards for Housing Certain Farm Animals. This measure (Proposition 12) creates new minimum requirements on farmers to provide more space for egg-laying hens, breeding pigs, and calves raised for veal. These requirements, which apply to farm animals raised in California, would be phased in over the next several years. Figure 1 shows the specific requirements for each animal, when they would be phased in, and how they compare to current law.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Figure 1

Minimum Space Requirements Under Current Law and Proposition 12

Square Footage Per Animal

Farm Animal	Current Law ^a	Proposition 12 ^a	
		Starting in 2020	Starting in 2022
Egg-laying hen	Must be able to turn around freely, lie down, stand up, and fully extend their limbs. ^b	1 square foot of floor space	Cage-free housing ^c
Breeding pig		—	24 square feet of floor space
Calf raised for veal		43 square feet of floor space	Unchanged (43 square feet)

^a Current law and Proposition 12 both include some exceptions to minimum space requirements.
^b State regulations generally require 0.8 square feet of floor space per egg-laying hen. There are no similar regulations for breeding pigs or calves raised for veal.
^c Cage-free includes indoor housing systems that provide 1 to 1.5 square feet of floor space per hen and allow hens to move around inside a building.

Second, it could take several years for enough farmers in California and other states to change their housing systems to meet the measure’s requirements. If in the future farmers cannot produce enough eggs, pork, and veal to meet the demand in California, these shortfalls would lead to an increase in prices until farmers can meet demand.

As discussed above, many companies have announced that they are moving towards requiring that their food suppliers give farm animals more space to move around (such as by buying only cage-free eggs). To the extent that this happens, some of the price increases described above would have occurred anyway in future years.

Small Reduction in State Government Revenues.

Because this measure would increase costs for some California farmers who produce eggs, pork, and veal, some of them could choose to stop or reduce their production. To the extent this happens, there could be less state income tax revenues from these farm businesses in the future. The reduction statewide likely would not be more than several million dollars each year.

State Oversight Costs. CDFA would have increased workload to enforce this measure. For example, the department would have to check that farmers in California and other states that sell to California use animal housing that meets the measure’s requirements. CDFA would also make sure that products sold in California comply with the measure’s requirements. The **cost of this additional workload could be up to \$10 million annually.**

Visit <http://www.sos.ca.gov/campaign-lobbying/cal-access-resources/measure-contributions/2018-ballot-measure-contribution-totals/> for a list of committees primarily formed to support or oppose this measure. Visit <http://www.fppc.ca.gov/transparency/top-contributors/nov-18-gen.html> to access the committee’s top 10 contributors.

If you desire a copy of the full text of the state measure, please call the Secretary of State at (800) 345-VOTE (8683) or you can email vigfeedback@sos.ca.gov and a copy will be mailed at no cost to you.

Bans the Sale of Products That Do Not Meet New Housing Standards. The measure also makes it illegal for businesses in California to knowingly sell eggs (including liquid eggs) or uncooked pork or veal that came from animals housed in ways that do not meet the measure’s requirements. This sales ban applies to products from animals raised in California or out-of-state. The sales ban generally does not apply to foods that have eggs, pork, or veal as an ingredient or topping (such as cookie dough and pizza). Violation of the housing requirements or sales ban would be a misdemeanor, and a violation of the sales ban could also be subject to a fine in civil court. This measure also requires CDFA and the California Department of Public Health to write regulations to implement its requirements.

FISCAL EFFECTS

Consumer Prices Likely to Increase. This measure would likely result in an increase in prices for eggs, pork, and veal for two reasons. First, this measure would result in many farmers having to remodel or build new housing for animals—such as by installing cage-free housing for hens. In some cases, this housing also could be more expensive to run on an ongoing basis. Much of these increased costs are likely to be passed through to consumers who purchase the products.

measure shall be self-executing and given full force and effect.

SEC. 4. Severability.

The provisions of this act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this act. The people of the State of California hereby declare that they would have adopted this act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this act or application thereof would be subsequently declared invalid.

SEC. 5. Legal Defense.

If this act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 (commencing with Section 12500) of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

PROPOSITION 12

This initiative measure is submitted to the people in accordance with the provisions of

Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Health and Safety Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Prevention of Cruelty to Farm Animals Act.

SEC. 2. The purpose of this act is to prevent animal cruelty by phasing out extreme methods of farm animal confinement, which also threaten the health and safety of California consumers, and increase the risk of foodborne illness and associated negative fiscal impacts on the State of California.

SEC. 3. Section 25990 of the Health and Safety Code is amended to read:

25990. PROHIBITIONS. In addition to other applicable provisions of law:

~~(a) a person A farm owner or operator within the state shall not tether or confine knowingly cause any covered animal; to be confined in a cruel manner. on a farm, for all or the majority of any day, in a manner that prevents such animal from:~~

~~(a) Lying down, standing up, and fully extending his or her limbs; and~~

~~(b) Turning around freely.~~

(b) A business owner or operator shall not knowingly engage in the sale within the state of any of the following:

(1) Whole veal meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner.

(2) Whole pork meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner, or is the meat of immediate offspring of a covered animal who was confined in a cruel manner.

(3) *Shell egg that the business owner or operator knows or should know is the product of a covered animal who was confined in a cruel manner.*

(4) *Liquid eggs that the business owner or operator knows or should know are the product of a covered animal who was confined in a cruel manner.*

SEC. 4. Section 25991 of the Health and Safety Code is amended to read:

25991. DEFINITIONS. For the purposes of this chapter, the following terms have the following meanings:

(a) *“Breeding pig” means any female pig of the porcine species kept for the purpose of commercial breeding who is six months or older or pregnant.*

(b) *“Business owner or operator” means any person who owns or controls the operations of a business.*

(c) *“Cage-free housing system” means an indoor or outdoor controlled environment for egg-laying hens within which hens are free to roam unrestricted; are provided enrichments that allow them to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and within which farm employees can provide care while standing within the hens’ usable floorspace. Cage-free housing systems include, to the extent they comply with the requirements of this subdivision, the following:*

(1) *Multitiered aviaries, in which hens have access to multiple elevated platforms that provide hens with usable floorspace both on top of and underneath the platforms.*

(2) *Partially slatted systems, in which hens have access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below.*

(3) *Single-level all-litter floor systems bedded with litter, in which hens have limited or no access to elevated flat platforms.*

(4) *Any future systems that comply with the requirements of this subdivision.*

~~(a)~~(d) *“Calf raised for veal” means any calf of the bovine species kept for the purpose of producing the food product described as veal.*

(e) *“Confined in a cruel manner” means any one of the following acts:*

(1) *Confining a covered animal in a manner that prevents the animal from lying down, standing up, fully extending the animal’s limbs, or turning around freely.*

(2) *After December 31, 2019, confining a calf raised for veal with less than 43 square feet of usable floorspace per calf.*

(3) *After December 31, 2021, confining a breeding pig with less than 24 square feet of usable floorspace per pig.*

(4) *After December 31, 2019, confining an egg-laying hen with less than 144 square inches of usable floorspace per hen.*

(5) *After December 31, 2021, confining an egg-laying hen with less than the amount of usable floorspace 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 or in an enclosure other than a cage-free housing system.*

~~(b)~~(f) *“Covered animal” means any pig—during pregnancy, calf raised for veal, breeding pig, or egg-laying hen who is kept on a farm.*

~~(e)~~(g) *“Egg-laying hen” means any female domesticated chicken, turkey, duck, goose, or guinea-fowl guineafowl kept for the purpose of egg production.*

~~(d)~~(h) *“Enclosure” means any cage, crate, or other a structure (including what is commonly described as a “gestation crate” for pigs, a “veal crate” for calves, or a “battery cage” for egg-laying hens) used to confine a covered animal or animals.*

~~(e)~~(i) *“Farm” means the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food or fiber; and does not include live animal markets-, establishments at which mandatory inspection is provided under the Federal Meat Inspection Act (21 U.S.C. Sec. 601 et seq.), or official plants at which mandatory inspection is maintained under the federal Egg Products Inspection Act (21 U.S.C. Sec. 1031 et seq.).*

(j) *“Farm owner or operator” means any person who owns or controls the operations of a farm.*

~~(f)~~(k) *“Fully extending his or her the animal’s limbs” means fully extending all limbs without touching the side of an enclosure, including, in*

the case of egg-laying hens, fully spreading both wings without touching the side of an enclosure or other egg-laying hens or another animal.

(l) *“Liquid eggs” means eggs of an egg-laying hen broken from the shells, intended for human food, with the yolks and whites in their natural proportions, or with the yolks and whites separated, mixed, or mixed and strained. Liquid eggs do not include combination food products, including pancake mixes, cake mixes, cookies, pizzas, cookie dough, ice cream, or similar processed or prepared food products, that are comprised of more than liquid eggs, sugar, salt, water, seasoning, coloring, flavoring, preservatives, stabilizers, and similar food additives.*

(g)(m) *“Person” means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate.*

(h) *“Pig during pregnancy” means any pregnant pig of the porcine species kept for the primary purpose of breeding.*(n) *“Pork meat” means meat, as defined in Section 900 of Title 3 of the California Code of Regulations as of August 2017, of a pig of the porcine species, intended for use as human food.*

(o) *“Sale” means a commercial sale by a business that sells any item covered by this chapter, but does not include any sale undertaken at an establishment at which mandatory inspection is provided under the Federal Meat Inspection Act (21 U.S.C. Sec. 601 et seq.), or any 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.). For purposes of this section, a sale shall be deemed to occur at the location where the buyer takes physical possession of an item covered by Section 25990.*

(p) *“Shell egg” means a whole egg of an egg-laying hen in its shell form, intended for use as human food.*

(i)(q) *“Turning around freely” means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure or another animal.*

(r) *“Uncooked” means requiring cooking prior to human consumption.*

(s) *“Usable floorspace” means the total square footage of floorspace provided to each covered animal, as calculated by dividing the total square footage of floorspace provided to the animals in an enclosure by the number of animals in that enclosure. In the case of egg-laying hens, usable floorspace shall include both groundspace and elevated level flat platforms upon which hens can roost, but shall not include perches or ramps.*

(t) *“Veal meat” means meat, as defined in Section 900 of Title 3 of the California Code of Regulations as of August 2017, of a calf raised for veal intended for use as human food.*

(u) *“Whole pork meat” means any uncooked cut of pork, including bacon, ham, chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin, or cutlet, that is comprised entirely of pork meat, except for seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives. Whole pork meat does not include combination food products, including soups, sandwiches, pizzas, hotdogs, or similar processed or prepared food products, that are comprised of more than pork meat, seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives.*

(v) *“Whole veal meat” means any uncooked cut of veal, including chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin, or cutlet, that is comprised entirely of veal meat, except for seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives. Whole veal meat does not include combination food products, including soups, sandwiches, pizzas, hotdogs, or similar processed or prepared food products, that are comprised of more than veal meat, seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives.*

SEC. 5. Section 25992 of the Health and Safety Code is amended to read:

25992. EXCEPTIONS. This chapter shall not apply:

(a) During ~~scientific or agricultural~~ *medical* research.

(b) During examination, testing, individual treatment, or operation for veterinary purposes.

(c) During transportation.

(d) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions.

(e) During the slaughter of a covered animal in accordance with the provisions of Chapter 6 (commencing with Section 19501) of Part 3 of Division 9 of the Food and Agricultural Code, relating to humane methods of slaughter, and other applicable law and regulations.

(f) To a *breeding* pig during the ~~seven-day~~ *five-day* period prior to the *breeding* pig's expected date of giving birth, *and any day that the breeding pig is nursing piglets.*

(g) *During temporary periods for animal husbandry purposes for no more than six hours in any 24-hour period, and no more than 24 hours total in any 30-day period.*

SEC. 6. Section 25993 of the Health and Safety Code is amended to read:

25993. ENFORCEMENT. *(a) The Department of Food and Agriculture and the State Department of Public Health shall jointly promulgate rules and regulations for the implementation of this act by September 1, 2019.*

(b) Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment in the county jail for a period not to exceed 180 days or by both such fine and imprisonment. In addition, a violation of subdivision (b) of Section 25990 constitutes unfair competition, as defined in Section 17200 of the Business and Professions Code, and is punishable as prescribed in Chapter 5

(commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(c) The provisions of this chapter relating to cruel confinement of covered animals and sale of products shall supersede any conflicting regulations, including conflicting regulations in Chapter 6 (commencing with Section 40601) of Subdivision 6 of Division 2 of Title 22 of the California Code of Regulations.

SEC. 7. Section 25993.1 is added to the Health and Safety Code, to read:

25993.1. *It shall be a defense to any action to enforce subdivision (b) of Section 25990 that a business owner or operator relied in good faith upon a written certification by the supplier that the whole veal meat, whole pork meat, shell egg, or liquid eggs at issue was not derived from a covered animal who was confined in a cruel manner, or from the immediate offspring of a breeding pig who was confined in a cruel manner.*

SEC. 8. This act shall be amended only by a statute approved by a vote of four-fifths of the members of both houses of the Legislature. Any amendment of this act shall be consistent with and further the purposes of this act.

SEC. 9. If any provision of this act, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this act that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this act are severable.