

# HOUSE BILL REPORT

## SSB 5487

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### As Passed House - Amended:

April 11, 2011

**Title:** An act relating to eggs and egg products in intrastate commerce.

**Brief Description:** Regarding eggs and egg products in intrastate commerce.

**Sponsors:** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Schoesler, Hatfield, Hobbs, Delvin, Honeyford, Becker and Shin).

### Brief History:

#### Committee Activity:

Agriculture & Natural Resources: 3/18/11, 3/22/11 [DP].

#### Floor Activity:

Passed House - Amended: 4/11/11, 70-27.

### Brief Summary of Substitute Bill (As Amended by House)

- Requires new and renewal applicants for an egg handlers license to prove compliance with certain third party operational standards.
- Includes the handling of egg products in the definition of an egg handler.
- Creates exemptions from the definition of egg products.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 9 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Hinkle, Kretz, Lytton and Orcutt.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Dunshee, Pettigrew, Rolfes and Van De Wege.

**Staff:** Jason Callahan (786-7117).

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Egg Handlers and Egg Dealers Licenses.

An egg handlers or egg dealers license is required to be obtained from the Washington State Department of Agriculture (WSDA) prior to a person being able to lawfully act as an egg handler or an egg dealer. Egg handlers and egg dealers are people who produce, or contract for the production of, eggs for the purpose of sales. This requirement is applicable to the eggs of chickens, turkeys, ducks, geese, or other fowl species.

### Third-party Egg Production Certification.

There are multiple private, third party groups that offer marketing certifications regarding agricultural practices and animal husbandry. Two of these groups are the United Egg Producers (UEP) and the American Humane Association (AHA).

The UEP is, according to its website, a cooperative made up of egg farmers from across the country. The UEP runs a certification program available to egg producers. Egg producers satisfying the husbandry guidelines established by the UEP may attach the "UEP-certified" label on their product.

In 2010 the UEP published an updated version of its certification guide called Animal Husbandry Guidelines for United States Egg Laying Flocks. According to the guidelines, for a company to be recognized as UEP-certified, the company must implement the UEP's animal husbandry guidelines at 100 percent of the company's facilities. New companies applying for certification must either:

- reduce the number of hens in all existing egg producing spaces until the required cage space allowance is achieved, satisfy all other standards of the UEP, and then pass an audit; or
- increase the number of hens in all existing egg producing spaces based on a schedule set by the UEP and satisfy all other standards of the UEP.

In addition, also according to the UEP's guidelines, all certified companies are required to file monthly compliance reports with the UEP and pay to the UEP an annual administrative and public relations fee.

The AHA is a private, nonprofit organization that, according to its website, has a mission of creating a more humane and compassionate world by ending abuse and neglect of children and animals. The AHA also offers third-party certification of farm-raised products, including eggs. In 2010 the AHA published their updated standards for enriched colony housing. Egg production operations must be conducted consistent with these standards to achieve certification from the AHA and to be licensed to market their products as AHA-certified.

According to those guidelines, certification requires a producer to apply the applicable facility plan design and site approval standards. This includes providing the AHA with information about the farm, including the number of birds on the farm and details about the bird's physical environment. Certified farms must report annually to the AHA and are subject to inspection by a third party auditor.

## **Summary of Amended Bill:**

### Egg Handlers and Egg Dealers Licenses-Scope.

The group of people required to obtain an egg handlers and egg dealers license is expanded from just people who handle eggs to include people who handle egg products. The existing definition of egg products is incorporated, which means certain dried, frozen, or liquid eggs. However, a number of exemptions are made to the definition. These include inspected freeze-dried products, imitation egg products, balut and other ethnic specialties, dietary foods, noodles, and dip.

### Egg Handlers and Egg Dealers Licenses-Requirements.

Any person must, prior to obtaining a new egg handlers or egg dealers license or renewing an existing license before the end of 2026, provide proof to the WSDA that the eggs or egg products are produced by a commercial egg layer operation that is certified under the 2010 version of the UEP Animal Husbandry Guidelines for United States Laying Flocks for Conventional Cage Systems. The WSDA may, in rule, require certification under any updated version of the same standards or require compliance with equivalent, but not less stringent, standards.

Beginning in 2026, all applicants for a new or renewed egg handlers or egg dealers license must provide proof to the WSDA that the eggs or egg products are produced by a commercial egg layer operation that:

- is approved under the 2011 version of the AHA facility plan and audit protocol for enriched colony housing; and
- provides at least 116.3 square inches of space to each hen and allows each hen access to areas for nesting, perching, and scratching.

The WSDA may, in rule, require compliance with any updated version of the same standards or require compliance with equivalent, but not less stringent, standards.

Any new hen housing constructed between 2012 and the end of 2016 must be constructed in a manner that is convertible to the standards all commercial egg layer operations are required to meet in 2026. By the year 2017, new housing constructed since 2012 must be fully operational at the standards required for all operation in 2026.

The new licensing standards apply to all egg handlers or egg dealers licenses regardless if the eggs are being sold in Washington or produced in Washington for sale out of state. However, applicants with 3,000 or less laying chickens and operations producing eggs from birds other than chickens are exempt from the additional requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect on August 1, 2012.

## **Staff Summary of Public Testimony:**

(In support) Most egg producers are local, multigenerational family farmers who are proud of their businesses and want to see them move into the future. There has been historic interest in ensuring humane treatment, health, and sanitation in egg production, but this is the first proposal that has been actually workable. The standards are implementable and will not lead to price increases for eggs. The research backing the standards is credible, has undergone rigorous testing, and was developed to satisfy the standards in California and Europe.

The goal is to ensure humane treatment of hens, so all hens should be included regardless of how the producer uses the eggs. Any solution that excludes a third of all chickens is not acceptable. If all hens are not covered by the new standards, the producers who have to meet the standards will go away and the market will only be left with out-of-state eggs that are not sourced from humanely treated birds.

Cage-free egg alternatives are available on the market now for the people who are willing to pay a premium price for them. However, people should not be forced to pay the higher price if the cage-free source is not important to them. People have the right to choose what they eat.

It is awkward for the industry to ask for regulations, but the industry needs assurances from the government that any investments made in new cage systems will remain legal going forward. All agricultural producers have a synergistic relationship and all have a role in supporting the state's fragile economy. A healthy egg industry is important for a healthy agriculture industry.

Humane treatment can be subjective. Free range chickens suffer from inhumane experiences when they suffer from dog, coyote, or raptor attacks. Even the presence of one predator can cause all hens to cease egg production. Cage-free systems both cost more for the producer and result in more hens dying. Hen welfare is just one consideration in an effective production system. Also important are food safety, job creation, fostering of a safe work environment, minimizing environmental impacts, and providing consumers with affordable food.

(Opposed) The bill's standards were developed by industry groups and do not result in the humane treatment of hens. The allowable cages do not lead to the physical or psychological health of the hens, nor do they meet the behavioral needs of chickens. The standards allow for cages that are insufficient for adequate chicken roosting, nesting, and dustbathing and result in unhealthy confinement.

The definition of "egg product" is problematic given the complexity of the national egg product supply chain. The shell egg supply chain is very different from the egg product supply chain. Requiring the producers of egg products to comply with the new standards would be unworkable, unenforceable, and potentially unconstitutional. The proposed restriction in interstate commerce would leave Washington isolated in the marketplace as the only state that requires egg products to meet humane hen treatment standards. Washington does not have the clout to affect national market changes.

The required cages should meet all standards and not merely be capable of being converted to meet the standards.

**Persons Testifying:** (In support) Senator Schoesler, prime sponsor; Dan Wood, Washington Farm Bureau; Jay Gordon, Washington State Dairy Federation; Holli Johnson, Washington State Grange; Greg Satrum, Willamette Egg Farms.; Brian Bookey, National Food Corp; Robin Ganzert and Tim Amlaw, American Humane Association; Kirk Robinson, Washington State Department of Agriculture; Holly Chisa, Northwest Grocery Association; and Craig Smith, Northwest Food Processors Association.

(Opposed) Jennifer Hillman, Humane Society of the United States; Sara Shielde; and Trent House and Norm Stocker, Cargill Kitchen Solutions.

**Persons Signed In To Testify But Not Testifying:** None.