

HOUSE BILL REPORT

HB 2619

As Reported by House Committee On:
Judiciary

Title: An act relating to laying hens.

Brief Description: Clarifying accepted animal husbandry practices for laying hens.

Sponsors: Representatives Romero, Miloscia and Upthegrove.

Brief History:

Committee Activity:

Judiciary: 2/5/02, 2/7/02 [DPS].

Brief Summary of Substitute Bill

- Requires the director of the Department of Agriculture, to the extent funds are available, to establish a program for conducting inspections of facilities in which 100 or more laying hens are kept.
- Provides that any practice that the director determines is not an accepted husbandry practice pursuant to the inspection program is not exempted from the animal cruelty laws.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Lantz, Chair; Hurst, Vice Chair; Dickerson, Lovick and Lysen.

Minority Report: Do not pass. Signed by 4 members: Representatives Carrell, Ranking Minority Member; Boldt, Esser and Jarrett.

Staff: Edie Adams (786-7180).

Background:

The state's law for the prevention of cruelty to animals prohibits certain practices and activities involving animals. Among the law's prohibitions are transporting or confining animals in an unsafe manner, engaging animals in exhibition fighting with other animals,

and poisoning animals. In addition, the chapter contains the crime of animal cruelty. Animal cruelty in the first degree, a class C felony, involves intentionally inflicting substantial pain on, causing physical injury to, or killing an animal by a means that causes undue suffering. Animal cruelty in the second degree is committed when a person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal. An owner may commit this crime by failing to provide necessary food, water, shelter, rest or medical attention, or by abandoning the animal. Animal cruelty in the second degree is a misdemeanor.

The animal cruelty laws do not apply to accepted husbandry practices that are used in the commercial raising or slaughtering of livestock or poultry.

Law enforcement agencies and animal care and control agencies may enforce the provisions of the animal cruelty law. An animal control officer may issue a citation based on probable cause but may not execute a search warrant without being accompanied by a law enforcement officer. In addition, the animal control officer may not arrest a person for a violation, but may request a law enforcement officer to make the arrest.

The state and federal Departments of Agriculture currently have inspection programs and requirements for egg processing and distribution facilities. There is currently no inspection program for the facilities where the laying hens are kept.

Summary of Substitute Bill:

The director of the Department of Agriculture (director) is required to establish an inspection program for facilities in which 100 or more laying hens are kept. The purpose of the inspection program is to determine whether the practices of the owners of a facility are conforming to accepted husbandry practices in the commercial raising of poultry or poultry products. In making this determination, the director must consider whether the practice complies with the generally accepted poultry industry standards applicable to laying hens. Inspections may not be conducted by animal control officers. The inspection program must be conducted within existing funding levels and must be coordinated with any existing state or federal egg production or processing inspection programs.

If the director finds evidence of a practice that is determined not to be an accepted husbandry practice, and that violates the animal cruelty laws, the director must report it to the local prosecuting attorney. The act may not be construed as providing the director the exclusive authority to investigate violations of the animal cruelty laws.

Any practice that the director determines is not an accepted husbandry practice is not exempted from the animal cruelty laws.

Substitute Bill Compared to Original Bill:

The original bill required the inspection program to be aimed at identifying instances in which a violation of the animal cruelty laws results in the death of 3 percent or more of the laying hens in a facility at any one time. The original bill also provided that an action that causes the death at any one time of three or more laying hens that constitute 3 percent or more of the laying hens in a facility is not an accepted husbandry practice used in the commercial raising of poultry or poultry products and is not exempt from the animal cruelty laws.

Appropriation: None.

Fiscal Note: Requested February 5, 2002.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is prompted by a terrible incident in Snohomish County where an egg producer killed thousands of his chickens by starving them to death. The prosecutor said he couldn't bring charges because the practice of forced molting is an accepted husbandry practice. This isn't the only hen facility where there is a problem or a potential problem. Currently the eggs themselves are inspected, but not the facilities where the hens are kept and that is where the real problem is. The industry standard for mortality is 1.5 percent and this bill doubles that to 3 percent for the practice of forced molting.

The real issue with the laying hens facilities is food disease, especially salmonella infection of the eggs. Forced molting increases stress on the chickens, which increases the chances the chickens will be infected with salmonella because of compromised immune systems. Salmonella contamination of the egg occurs in the henhouse and that is where the inspections should be occurring. The bill is in the interest of public health.

Testimony Against: The bill tries to legislate animal husbandry practices which is just not feasible. It affects the whole industry with a broad brush because of a problem with a very small portion of the industry. The inspection program required in the bill would be very expensive to implement and probably wouldn't find another case in 30 or 50 years. The only reason the case referred to wasn't prosecuted was because of a "home-town" issue rather than a problem with the current law. That case clearly did not fall within accepted husbandry practices.

Testified: (In Support) Representative Romero, prime sponsor; Susan Michaels, Pasado's Safe Haven; Stewart Metz, M.D., University of Washington; Robert Stagman, M.D., BOD Progressive Animal Welfare Society; Mark Steinway, Snohomish County;

Brian Berg, Wing Over Farm; and Nancy Pennington, Mothers for Food Safety.

(Opposed) Jonathan Schlueter, Northwest Poultry Council; and Robert Mead, Washington State Department of Agriculture.