REPORT ON LEGISLATION
BY THE ANIMAL LAW COMMITTEE

A.1341 M. of A. Rosenthal
S.4718 Sen. Boyle

AN ACT to amend the agriculture and markets law, in relation to the confinement of animals for food producing purposes.

THIS BILL IS APPROVED

I. SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation would amend the New York State Agriculture and Markets Law to make it unlawful to confine a pig during pregnancy, calf raised for veal, or egg-laying hens for all or the majority of any day in a manner that prevents such animals from lying down, standing up, fully extending their limbs, or turning around freely. The proposed legislation would not prohibit such confinement during transportation, exhibitions at rodeos, fairs, youth programs, and similar exhibitions, the slaughtering process, scientific or agricultural research, examination, testing, individual treatment or operation for veterinary purposes. The proposed legislation also would permit such confinement of a pig during the seven-day period prior to the pig’s expected date of giving birth.

Violation of the law would be a Class A misdemeanor. The effective date of the act would 24 months after it becomes law.

1 “Pig during pregnancy” is defined to mean a pregnant pig of the porcine species kept for the primary purpose of breeding.
2 “Calf raised for veal” is defined to mean any calf of the bovine species kept for the purpose of producing the food product described as veal.
3 “Egg-laying hen” is defined to mean any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of egg production.
4 A Class A misdemeanor is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment.
II. JUSTIFICATION

A. Animal Welfare

Today the vast majority of farmed animals in the United States are raised in concentrated animal feeding operations (“CAFOs”), which are characterized by the housing of large numbers of animals in very crowded conditions, often resulting in extreme methods of confinement. The most common intensive confinement devices on CAFOs include gestation crates for breeding pigs, and battery cages for egg-laying hens and broiler chickens. As noted below, veal crates for calves raised for veal continue to be used on many farms, although they are increasingly being phased out in favor of group housing. Confinement practices such as the use of gestation crates, battery cages and veal crates restrict animals to spaces barely larger than the size of their bodies for most of their lives. Such intensive confinement methods are inherently cruel, as they deprive animals of the ability to engage in natural behaviors, such as lying down, standing up, fully extending their limbs, or turning around freely, which creates conditions of boredom and stress as well as physical illness.

Approximately half a million veal calves are slaughtered annually in the U.S. These animals are commonly removed from their mothers immediately after birth and are raised in confined spaces to limit exercise and muscle growth in order to produce tender veal. Traditionally, veal production practices include individually confining calves in narrow stalls or crates (approximately 26-30 inches wide and 66 inches long) which do not permit the animals to engage in basic movements such as standing up or turning around, leading to such physical ailments as digestive problems, discomfort, impaired locomotion, and a greater susceptibility to disease. While thousands of animals are still raised in this manner, U.S. producers are increasingly utilizing a group housing pens which allow animals to stand up, turn around and engage in some social behaviors.

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8 Id.


10 Id.
Approximately 6 million breeding sows (female pigs) are confined for their entire lives in gestation crates, individual, concrete-floored metal stalls typically measuring 2.5 feet wide by 6.5 feet long (only slightly larger than the animal’s body) that are so severely restrictive of movement that the animals are unable to turn around within the crate or take more than a step forward or backward.\(^\text{11}\)

Approximately 94% of egg-laying hens in the United States (about 300 million animals per year) are raised in large sheds and other indoor structures containing 20,000 chickens or more where they are confined in wire battery cages that are “in the range of 67 to 86 square inches of usable space per bird,”\(^\text{12}\) which is smaller than the area of a sheet of 8½ by 11 inch paper. These conditions make it impossible for these animals to spread their wings or turn around.\(^\text{13}\)

Confinement of calves, sows, and hens within these types of crates and cages is inherently cruel, as it deprives these animals of the ability to engage in natural behaviors, such as lying down, standing up, fully extending their limbs, or turning around freely.

There is no federal law that provides mandatory animal welfare standards for the treatment of farmed animals prior to transport and slaughter, however at least twelve other states – Florida,\(^\text{14}\) Arizona,\(^\text{15}\) Oregon,\(^\text{16}\) Colorado,\(^\text{17}\) California,\(^\text{18}\) Maine,\(^\text{19}\) Massachusetts,\(^\text{20}\) Michigan,\(^\text{21}\) Ohio,\(^\text{22}\) Rhode Island,\(^\text{23}\) Kentucky,\(^\text{24}\) and Washington\(^\text{25}\) – have banned certain intensive

\(^\text{13}\) Id.; see also ASPCA, A Closer Look at Animals on Factory Farms, http://www.aspca.org/animal-cruelty/farm-animal-welfare/animals-factory-farms.
\(^\text{14}\) ART. X, §21, Fla. CONST. (adopted 2002).
\(^\text{19}\) 7 M.R.S.A. §4020 (2009).
\(^\text{20}\) Massachusetts Minimum Size Requirements for Farm Animal Containment, Question 3 (enacted Nov. 8, 2016).
\(^\text{21}\) MCL 287.746.
\(^\text{22}\) Ohio Adm. Code 901:12.
\(^\text{23}\) 4 R.I. Gen. Laws § 4-1.1.
confinement practices, similar to some or all of those proposed in this bill. The changes proposed by this piece of legislation, which allow for a gradual phase-out of these confinement methods over 24 months, would require relatively modest changes, but would result in an alleviation of the needless discomfort and suffering of calves, sows, and hens which would otherwise be kept in these extreme confining conditions.

The proposed legislation is necessary to prohibit these inhumane confinement practices in New York State.

B. Public Health and Environmental Pollutants

Intensive confinement methods are a major source of antibiotic resistant bacteria as well as air and water pollution. Therefore the proposed legislation would also result in a positive impact on public health and the environment.

1. The link between intensive confinement devices and antibiotic-resistant bacteria

The widespread use of intensive confinement methods such as gestation crates, veal crates and battery cages for food-producing animals is a primary reason for the administration of non-therapeutic antibiotics to manage and prevent disease induced by such conditions.\(^2^6\) It has been estimated that up to 70% of all antibiotics sold in the United States are given to healthy food animals.\(^2^7\) The overuse of antibiotics in animal agriculture has been widely recognized as a primary cause of the proliferation of antibiotic-resistant bacteria. For example, the Centers for Disease Control and the Food and Drug Administration have identified the widespread use of antibiotics in food-producing animals as a significant factor in the emergence and transmission of antibiotic-resistant bacteria to humans.\(^2^8\) Accordingly public health authorities have called for a phasing out of the use of intensive confinement practices, including discontinuance of the use

\(^2^4\)302 KAR 21:030.
\(^2^6\)PEW COMM’N ON INDUSTRIAL FARM ANIMAL PRODUCTION, PUTTING MEAT ON THE TABLE: INDUSTRIAL FOOD ANIMAL PRODUCTION IN AMERICA (2008) (hereinafter the “PEW REPORT”), http://www.pewtrusts.org/~/media/legacy/uploadedfiles/peg/publications/report/pcifapfinalpdf.pdf (noting that “[i]ndustrial farm animal production systems are also highly dependent on intensive animal confinement, which commonly requires the use of antimicrobials to prevent disease, not just to treat it.”).
\(^2^7\)PEW REPORT, supra note 35, at 15.
of gestation crates, veal crates and battery cages to protect public health by reducing opportunities for the proliferation of antimicrobial resistant bacteria.  

2. The link between intensive confinement devices and air and water pollution

Intensive confinement of farmed animals is also recognized to contribute to serious environmental concerns. CAFOs produce immense amounts of untreated waste that must be stored and properly disposed. The quantities of waste and manure generated are often greatly in excess of that which can biodegrade or be absorbed by the land. It is estimated that manure production at a single CAFO can range from 2,800 tons to 1.6 million tons a year. Such waste contains many different types of pollutants, including heavy metals, hormones and antibiotics, as well as nutrients like nitrogen and phosphorus, gases such as nitrous oxide, methane and carbon dioxide, and pathogens such as *E. Coli* and *Salmonella*. CAFO emissions contribute significantly to water pollution and air pollution (including global warming).

A phasing out of the use of these intensive confinement methods would be a first step toward addressing these serious issues in order to protect the public health and environment for citizens of New York.

III. SUPPORT AND OPPOSITION IN RELATION TO THE PROPOSED LEGISLATION

The American Veal Association supports the elimination of veal crates and has passed a resolution calling for all U.S. veal producers to transition to group housing methods by December 31, 2017. The phasing out of intensive confinement practices is supported by a

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29 PEW REPORT, supra note 35, at 85 (“Implement better animal husbandry practices to improve public health and animal well-being”; “Phase out the most intensive and inhumane production practices”); JOHNS HOPKINS CENTER FOR A LIVABLE FUTURE, FOOD ANIMAL PRODUCTION IN AMERICA: EXAMINING THE IMPACT OF THE PEW COMMISSION’S PRIORITY RECOMMENDATIONS 26 (Fall 2013) (hereinafter, the “JHC REPORT”), http://www.jhsp.hedu/research/centers-and-institutes/johns-hopkins-center-for-a-livable-future/_pdf/research/clf_reports/CLF-PEW-for%20Web.pdf, ( Recommending a “phase out [of] intensive confinement” and noting that “[i]n light of these conditions for animals, and the connections between animal welfare, food safety, and the public, the Commission recommended that all intensive confinement systems that restrict the natural movement and normal behaviors of animals, including swine gestation crates, battery cages for laying hens, and tethered veal crates, be phased out within 10 years.”).

30 GAO REPORT supra note 5, at 5.

31 See JHC REPORT, supra 38, at 18.

32 CAFOs are defined as “point sources” of pollutants under the Clean Water Act (see 33 U.S.C. 1342, 1362(14)) and have been found to pollute over 25,000 miles of river and streams and 269,000 acres of lakes, reservoirs and ponds in the US. ENVIRONMENTAL PROTECTION AGENCY, SPECIFIC STATE PROBABLE SOURCES THAT MAKE UP THE NATIONAL AGRICULTURE PROBABLE SOURCE GROUP, http://iaspub.epa.gov/tmdl_waters10/attains_nation_cy_source_detail?p_source_group_name=AGRICULTURE.


34 Resolution of the Board of Directors of the American Veal Association (May 9, 2007), http://www.americanveal.com/s/GRP HOUSING.RESOL.1-0507.pdf.
number of animal welfare organizations including the Humane Society of the United States and the American Society for the Prevention of Cruelty to Animals. Similar legislation has been opposed by agricultural groups such as the National Pork Producers Council, claiming that the legislation would result in financial damage to hog farmers and raise grocery bills and burden low-income families. The United Egg Producers also opposed similar legislation, arguing that egg prices would spike, which has been rebutted by the Humane Society of the United States.

IV. CONCLUSION

For the aforementioned reasons, the Animal Law Committee of the New York City Bar Association supports the proposed legislation.

Animal Law Committee
Lori Barrett, Chair

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36 Id.; see also Spencer Buell, Massachusetts Passes Question 3, Banning Small Cages for Farm Animals, BOSTON MAGAZINE (Nov. 8, 2016). http://www.bostonmagazine.com/news/blog/2016/11/08/mass-question-3-farm-animals.
37 Id.