

HOUSE BILL 92

Unofficial Copy
M4

2002 Regular Session
2r0080

(PRE-FILED)

By: **Chairman, Environmental Matters Committee (Departmental -
Agriculture)**

Requested: October 26, 2001

Introduced and read first time: January 9, 2002

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: January 29, 2002

CHAPTER _____

1 AN ACT concerning

2

Maryland Egg Law

3 FOR the purpose of altering the definition of the term "shell eggs" to include certain
4 treated eggs; including donated eggs under certain regulations; prohibiting a
5 person from donating, selling, offering for sale, advertising, or delivering certain
6 eggs; requiring the Secretary of Agriculture to establish certain standards;
7 establishing certain refrigeration requirements; authorizing the Secretary to
8 establish certain voluntary standards and repealing the Secretary's
9 authorization to adopt certain regulations; authorizing the Secretary to impose
10 certain civil penalties and to adopt certain regulations, and providing for the
11 payment of these penalties into a certain fund; defining a certain term; making
12 certain technical changes; and generally relating to the regulation of shell eggs
13 under the Maryland Egg Law.

14 BY repealing and reenacting, with amendments,

15 Article - Agriculture

16 Section 4-301, 4-302, 4-303, 4-305, 4-306, 4-307, and 4-308

17 Annotated Code of Maryland

18 (1999 Replacement Volume and 2001 Supplement)

19 BY repealing and reenacting, without amendments,

20 Article - Agriculture

21 Section 4-304, 4-309, 4-310, 4-311, 4-311.1, 4-311.2, 4-311.3, 4-311.4, 4-311.5,

22 4-311.6, 4-311.7, and 4-312

23 Annotated Code of Maryland

1 (1999 Replacement Volume and 2001 Supplement)

2 BY adding to

3 Article - Agriculture

4 Section 4-305.1 and 4-311.8

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2001 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Agriculture**

10 4-301.

11 (a) In this subtitle the following words have the meanings indicated.

12 (b) "Consumer" means any person who purchases or otherwise acquires shell
13 eggs for household consumption.

14 (c) "Packer" means any person who places shell eggs in the original case,
15 carton, or container that is used to hold eggs for distribution or sale to a consumer.

16 (d) (1) "Distributor" means any person who:

17 (i) Sells, offers, or exposes for sale shell eggs;

18 (ii) Purchases shell eggs for other than household consumption; or

19 (iii) Distributes eggs to a retail outlet or food service facility owned
20 by that person.

21 (2) "Distributor" does not include any person who purchases shell eggs
22 either exclusively as a retailer or exclusively for use in a food service facility or
23 exclusively both as a retailer and as a food service facility.

24 (e) "Food service facility" means any person who operates a facility where eggs
25 are used in the preparation of food and who does not distribute eggs to a food service
26 facility owned by that person.

27 (f) "RETAILER" MEANS ANY PERSON WHO SELLS SHELL EGGS TO A
28 CONSUMER AND WHO DOES NOT DISTRIBUTE EGGS TO A RETAIL OUTLET OWNED BY
29 THAT PERSON.

30 (G) "Shell eggs" means raw OR TREATED CHICKEN eggs THAT ARE STILL IN
31 THE SHELL AND INTENDED [produced by chickens] for human consumption.

32 [(g) "Retailer" means any person who sells shell eggs to a consumer and who
33 does not distribute eggs to a retail outlet owned by that person.]

1 (H) "TREATED EGG" MEANS A CHICKEN EGG THAT HAS BEEN SUBJECTED TO A
2 PROCESS THAT ALTERS THE EGG WHILE STILL IN THE SHELL.

3 4-302.

4 [No] A person may NOT DONATE, sell, advertise, offer, or in any manner
5 represent for sale shell eggs to any person unless the shell eggs meet standards of
6 quality, grade, and size classification as provided in this subtitle.

7 4-303.

8 (a) The Secretary may adopt rules and regulations limiting OR REQUIRING the
9 use of any term used when shell eggs are offered or exposed for sale, sold, DONATED,
10 or advertised [except grade or size or weight classifications provided by statute].

11 [(b) The term "fresh" or the term "Maryland fresh", for shell eggs produced in
12 the State, may be used in addition to the applicable grade and size designation, except
13 for shell eggs below A quality. The Secretary shall adopt rules and regulations setting
14 the standards for "Maryland fresh" eggs. Candling or any other method approved by
15 the Secretary shall be used when making a final determination of whether shell eggs
16 meet the standard of quality.]

17 (B) A PERSON MAY NOT DONATE, SELL, OFFER FOR SALE, OR DELIVER ANY
18 SHELL EGGS THAT ARE NOT LABELED ACCORDING TO REGULATIONS ADOPTED BY
19 THE SECRETARY.

20 4-304.

21 The size or weight classification for individual shell eggs in the State shall be
22 the same as the official United States Department of Agriculture weight classes for
23 shell eggs for the following classifications: jumbo, extra large, large, medium, small,
24 and pee wee. The Secretary shall adopt rules and regulations prescribing the weights
25 permitted in this subtitle. The net weight of shell eggs does not include the weight of
26 any container.

27 4-305.

28 (A) THE SECRETARY SHALL ESTABLISH STANDARDS FOR QUALITY OF
29 INDIVIDUAL OR GRADES OF SHELL EGGS.

30 (B) The State standards for quality of individual or grades of shell eggs shall
31 be the same as those of the United States Department of Agriculture, WHERE
32 APPLICABLE.

33 (C) A PERSON MAY NOT DONATE, SELL, ADVERTISE, OFFER, OR IN ANY
34 MANNER REPRESENT FOR SALE SHELL EGGS THAT DO NOT MEET THE STANDARDS
35 ADOPTED BY THE SECRETARY.

1 4-305.1.

2 ALL SHELL EGGS SHALL BE STORED, DISPLAYED, AND TRANSPORTED IN A
3 REFRIGERATED AREA WHERE THE TEMPERATURE MEETS THE STANDARDS
4 ESTABLISHED BY THE SECRETARY.

5 4-306.

6 [(a) The Secretary may establish for use on a voluntary basis special grades of
7 shell eggs produced in the State that are of a standard superior to United States
8 Department of Agriculture Grade A shell eggs. The Secretary may adopt rules and
9 regulations (1) prescribing and defining quality and size standards, and establishing
10 special tolerances for the grade of shell eggs, (2) requiring, as a condition precedent to
11 sale, any person who desires to pack special grades for sale to register annually with
12 the Secretary and pay a reasonable registration fee set by the Secretary, (3) devising
13 and charging reasonable fees for seals or other appropriate identifying insignia to be
14 used, as a condition precedent to sale by any person who desires to pack them for sale,
15 and (4) adopting other rules and regulations necessary to effectuate the purposes of
16 this section.

17 (b) In addition to any other penalty provided by this article, the Secretary may
18 revoke the registration of any person who violates any provision of this subtitle or any
19 rule or regulation adopted pursuant to it.]

20 THE SECRETARY MAY ESTABLISH VOLUNTARY STANDARDS TO IDENTIFY SHELL
21 EGGS THAT EXCEED THE STANDARDS OF QUALITY, SIZE, PROCESSING, OR
22 PRODUCTION REQUIRED UNDER THIS SUBTITLE.

23 4-307.

24 [No] A person may NOT sell, offer to sell, or deliver any shell eggs not properly
25 designated in respect to quality and size standard. When shell eggs are sold or offered
26 for sale, the designation shall be plainly and conspicuously shown on the container
27 and in the offer to sell, and if the shell eggs are loose, by a sign placed on or near the
28 eggs. Any shell eggs not designated as United States Department of Agriculture
29 Grade B shall be presumed to be United States Department of Agriculture Grade A in
30 allowing tolerance for quality.

31 4-308.

32 [No] A person may NOT sell or deliver shell eggs to a distributor, retailer, or food
33 service facility unless at the time of delivery the person furnishes an invoice delivery
34 ticket accurately detailing the sale of the shell eggs pursuant to this section. Every
35 invoice delivery ticket shall contain upon its face the following information:

- 36 (1) Delivery date;
- 37 (2) Name and address of the seller;
- 38 (3) Name and address of the purchaser;

- 1 (4) The registration number, if any, of the purchaser;
- 2 (5) The quantity;
- 3 (6) The grade and size of the shell eggs delivered; and
- 4 (7) The inspection fee, if applicable.

5 4-309.

6 A person may not fail or refuse to make required reports or report falsely or with
7 intent to deceive.

8 4-310.

9 (a) During the usual business hours, the Secretary may enter any warehouse,
10 store, building, market, or any other place, carrier, conveyance, or vehicle where or
11 from where shell eggs are sold, offered, or exposed for sale, to enforce the provisions of
12 this subtitle.

13 (b) If the Secretary finds shell eggs are sold, offered or exposed for sale in
14 violation of the subtitle, he may issue a written or printed "stop-sale" order to the
15 person violating this section. After receipt of the order, the recipient may not sell,
16 offer, or expose for sale any shell eggs subject to the order. Any person upon whom a
17 "stop-sale" order has been served may appeal to the Secretary.

18 4-311.

19 If the Secretary finds that any shell eggs are adulterated or unfit for human
20 consumption, he shall segregate them and mark them in a permanent manner to
21 permit ready identification. If no appeal is taken from a determination of
22 condemnation, the Secretary shall destroy them in a manner prescribed by the rules
23 and regulations. If an appeal is taken, the condemned shell eggs shall be segregated
24 and stored pending completion of an appeal inspection. The eggs may be destroyed in
25 accordance with this section if the appeal is sustained.

26 4-311.1.

27 A person shall register with the Secretary each business location where that
28 person is operating as either a packer or distributor.

29 4-311.2.

30 (a) Except as otherwise provided in subsection (b) of this section, an applicant
31 for registration shall:

32 (1) Submit to the Secretary an application on the form that the Secretary
33 provides; and

34 (2) Pay to the Secretary the appropriate registration fee established in
35 subsection (c) of this section.

1 (b) A packer or distributor who keeps 3,000 or fewer chickens and who sells,
2 offers, or exposes for sale shell eggs only from those chickens shall register with the
3 Secretary, but is exempt from paying any fee required by this subtitle.

4 (c) The following persons shall pay to the Secretary the registration fee
5 indicated:

6 (1) Packer\$30; and

7 (2) Distributor \$30.

8 4-311.3.

9 (a) Unless a registration for a packer or distributor of shell eggs is renewed for
10 a 1-year term, the registration expires on January 1.

11 (b) Before a registration expires, the registration may be renewed for an
12 additional 1-year term, if the applicant:

13 (1) Is a packer or distributor of shell eggs;

14 (2) Pays the applicable fee as provided in § 4-311.2 of this subtitle; and

15 (3) Submits to the Secretary a renewal application on a form that the
16 Secretary provides.

17 (c) The packer or distributor shall display the registration conspicuously at
18 each place of business.

19 (d) The packer or distributor shall notify the Secretary if the packer's or
20 distributor's business is moved to a new location.

21 4-311.4.

22 Subject to the hearing provisions adopted by the Secretary, the Secretary may
23 deny, suspend, or revoke the registration for a packer or distributor if:

24 (1) The packer or distributor does not meet the requirements of this title;
25 or

26 (2) The packer or distributor violates any provision of this subtitle or any
27 regulation adopted by the Secretary.

28 4-311.5.

29 (a) (1) There is an "Egg Law Fund".

30 (2) All fees collected under the provisions of this subtitle shall be
31 credited to the Fund.

1 (b) The Fund shall be used to partially defray the expenses of administering
2 this subtitle.

3 4-311.6.

4 (a) A packer or distributor who is required to pay a fee under this subtitle
5 shall submit to the Secretary:

6 (1) A quarterly report showing the number of dozens of shell eggs sold or
7 delivered in Maryland to any retailer, food service facility, or consumer; and

8 (2) At the time that the quarterly report is due, an inspection fee at a
9 rate of 8 cents for each 30-dozen case of shell eggs sold or delivered in Maryland.

10 (b) (1) If the report is not filed and the required inspection fee is not paid
11 within 30 days after the end of the quarterly period, a collection fee shall be assessed
12 against the packer or distributor.

13 (2) The amount of the collection fee shall be the greater of:

14 (i) 10 percent of the inspection fee due and unpaid; or

15 (ii) \$100.

16 (3) The amount of collection fee due is a debt and may be the basis of a
17 judgment in a civil action against the packer or distributor.

18 4-311.7.

19 A packer or distributor shall:

20 (1) Keep accurate records showing the number of eggs sold or delivered
21 to any person;

22 (2) Keep required records at each place of business or at a central
23 location within the State;

24 (3) Keep required records for 1 year; and

25 (4) Make required egg records available to the Secretary upon request.

26 4-311.8.

27 (A) INSTEAD OF, OR IN ADDITION TO, ISSUING A STOP SALE ORDER OR
28 REVOCATION OF A REGISTRATION UNDER THIS SUBTITLE, THE SECRETARY MAY
29 IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$5,000.

30 (B) A PENALTY COLLECTED BY THE SECRETARY UNDER THIS SECTION SHALL
31 BE PAID INTO THE STATE GENERAL FUND.

1 (C) THE SECRETARY MAY ADOPT REGULATIONS TO IMPLEMENT THE
2 PROVISIONS OF THIS SECTION.

3 4-312.

4 This subtitle may be cited as the Maryland Egg Law.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2002.