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MARCH 2020 - WORLD ANIMAL PROTECTION DRAFT

BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO:

AN INITIATIVE FOR AN ACT TO PREVENT CRUELTY TO FARM ANIMALS

SECTION 1. IN COLORADO REVISED STATUTES, **ADD** PART 2 TO ARTICLE 21 OF TITLE 35 AS FOLLOWS:

35-21-201. LEGISLATIVE DECLARATION. 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 COLORADO CONSUMERS, AND INCREASE THE RISK OF FOODBORNE ILLNESS AND ASSOCIATED NEGATIVE FISCAL IMPACTS ON THE STATE OF COLORADO.

35-21-202. DEFINITIONS. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "BREEDING PIG" MEANS ANY FEMALE PIG OF THE PORCINE SPECIES KEPT FOR THE PURPOSE OF COMMERCIAL BREEDING, WHO IS 6 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 FLOOR SPACE. CAGE-FREE HOUSING SYSTEMS INCLUDE, TO THE EXTENT THEY COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION:

(1) "MULTI-TIERED AVIARIES" IN WHICH HENS HAVE ACCESS TO MULTIPLE ELEVATED PLATFORMS THAT PROVIDE HENS WITH USABLE FLOOR SPACE 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, AND IN WHICH HENS HAVE LIMITED OR NO ACCESS TO ELEVATED FLAT PLATFORMS; AND

(4) ANY FUTURE SYSTEMS THAT WILL COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION.

(5) "CAGE-FREE HOUSING SYSTEM" DOES NOT INCLUDE SYSTEMS COMMONLY DESCRIBED AS BATTERY CAGES, COLONY CAGES, ENRICHED CAGES, ENRICHED COLONY CAGES, MODIFIED CAGES, CONVERTIBLE CAGES, FURNISHED CAGES, OR SIMILAR CAGE SYSTEMS.

(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; OR

(2) AFTER DECEMBER 31, 2021, CONFINING A CALF RAISED FOR VEAL WITH LESS THAN 43 SQUARE FEET OF USABLE FLOOR SPACE PER CALF; OR

(3) AFTER DECEMBER 31, 2021, CONFINING A BREEDING PIG WITH LESS THAN 24 SQUARE FEET OF USABLE FLOOR SPACE PER PIG; OR

(4) AFTER DECEMBER 31, 2021, CONFINING AN EGG-LAYING HEN WITH LESS THAN THE AMOUNT OF USABLE FLOOR SPACE 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.

(F) "COVERED ANIMAL" MEANS ANY PIG DURING PREGNANCY, CALF RAISED FOR VEAL, BREEDING PIG, OR EGG-LAYING HEN WHO IS KEPT ON A FARM.

(G) "EGG-LAYING HEN" MEANS ANY FEMALE DOMESTICATED CHICKEN, TURKEY, DUCK, GOOSE, OR GUINEA FOWL KEPT FOR THE PURPOSE OF EGG PRODUCTION.

(H) "ENCLOSURE" MEANS A STRUCTURE USED TO CONFINE A COVERED ANIMAL OR ANIMALS.

(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, OR OFFICIAL PLANTS AT WHICH MANDATORY INSPECTION IS MAINTAINED UNDER THE FEDERAL EGG PRODUCTS INSPECTION ACT.

(J) "FARM OWNER OR OPERATOR" MEANS ANY PERSON WHO OWNS OR CONTROLS THE OPERATIONS OF A FARM.

(K) "FULLY EXTENDING 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.

(M) "PERSON" MEANS ANY INDIVIDUAL, FIRM, PARTNERSHIP, JOINT VENTURE, ASSOCIATION, LIMITED LIABILITY COMPANY, CORPORATION, ESTATE, TRUST, RECEIVER, OR SYNDICATE.

(N) "PIG DURING PREGNANCY" MEANS ANY PREGNANT PIG OF THE PORCINE SPECIES KEPT FOR THE PRIMARY PURPOSE OF BREEDING.

(O) "PORK MEAT" MEANS MEAT OF A PIG OF THE PORCINE SPECIES, INTENDED FOR USE AS HUMAN FOOD.

(P) "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, OR ANY SALE UNDERTAKEN AT AN OFFICIAL PLANT AT WHICH MANDATORY INSPECTION IS MAINTAINED UNDER THE FEDERAL EGG PRODUCTS INSPECTION ACT. 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 THIS PART 2.

(Q) "SHELL EGG" MEANS A WHOLE EGG OF AN EGG-LAYING HEN IN ITS SHELL FORM, INTENDED FOR USE AS HUMAN FOOD.

(R) "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.

(S) "UNCOOKED" MEANS REQUIRING COOKING PRIOR TO HUMAN CONSUMPTION.

(T) "USABLE FLOOR SPACE" MEANS THE TOTAL SQUARE FOOTAGE OF FLOOR SPACE PROVIDED TO EACH COVERED ANIMAL, AS CALCULATED BY DIVIDING THE TOTAL SQUARE FOOTAGE OF FLOOR SPACE PROVIDED TO THE ANIMALS IN AN ENCLOSURE BY THE NUMBER OF ANIMALS IN THAT ENCLOSURE. IN THE CASE OF EGG-LAYING HENS, "USABLE FLOOR SPACE" SHALL INCLUDE BOTH GROUND SPACE AND ELEVATED LEVEL FLAT PLATFORMS UPON WHICH HENS CAN ROOST, BUT SHALL NOT INCLUDE PERCHES OR RAMPS.

(U) "VEAL MEAT" MEANS MEAT OF A CALF RAISED FOR VEAL INTENDED FOR USE AS HUMAN FOOD.

(V) "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, HOT DOGS, 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.

(W) "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, HOT DOGS, 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.

35-21-203. PROHIBITIONS IN ADDITION TO OTHER APPLICABLE PROVISIONS OF LAW, ON OR AFTER DECEMBER 31, 2021:

(A) A FARM OWNER OR OPERATOR WITHIN THE STATE OF COLORADO SHALL NOT KNOWINGLY CAUSE ANY COVERED ANIMAL TO BE CONFINED IN A CRUEL MANNER.

(B) A BUSINESS OWNER OR OPERATOR SHALL NOT KNOWINGLY ENGAGE IN THE SALE WITHIN THE STATE OF COLORADO OF ANY:

(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.

35-21-204. EXCEPTIONS SECTION 35-21-203 DOES NOT APPLY DURING:

(a) MEDICAL RESEARCH;

(b) EXAMINATION, TESTING, INDIVIDUAL TREATMENT, OR OPERATION FOR VETERINARY PURPOSES, BUT ONLY IF PERFORMED BY OR UNDER THE DIRECT SUPERVISION OF A VETERINARIAN LICENSED UNDER COLORADO LAW;

(c) TRANSPORTATION;

(d) A STATE OR COUNTY FAIR EXHIBITION, A 4-H PROGRAM, AND SIMILAR EXHIBITIONS;

(e) SLAUGHTER, IF DONE IN ACCORDANCE WITH AN APPLICABLE LAW; OR

(f) TEMPORARY PERIODS FOR ANIMAL HUSBANDRY PURPOSES FOR NO MORE THAN SIX HOURS IN ANY TWENTY-FOUR-HOUR PERIOD AND NO MORE THAN TWENTY-FOUR HOURS TOTAL IN ANY THIRTY-DAY PERIOD.

(g) TO A BREEDING PIG DURING FIVE (5) DAY PERIOD PRIOR TO THE BREEDING PIG'S EXPECTED DATE OF GIVING BIRTH, AND ANY DAY THAT THE BREEDING PIG IS NURSING PIGLETS.

35-21-205. PENALTY.

(1) IF A FARM OWNER OR OPERATOR OR BUSINESS OWNER OR OPERATOR VIOLATES THIS PART 2, THE COMMISSIONER SHALL IMPOSE A CRIMINAL PENALTY ON AN OWNER OR OPERATOR OF ONE THOUSAND DOLLARS PER VIOLATION, PER ANIMAL, PER DAY.

(2) IF THE COMMISSIONER IS UNABLE TO COLLECT A CRIMINAL PENALTY OR IF A FARM OWNER OR OPERATOR OR BUSINESS OWNER OR OPERATOR FAILS TO PAY ANY PORTION OF A CRIMINAL PENALTY IMPOSED UNDER THIS SECTION, THE COMMISSIONER MAY RECOVER THE AMOUNT OF THE PENALTY, PLUS COSTS AND ATTORNEY FEES, BY AN ACTION IN A COURT. THE COMMISSIONER IS AUTHORIZED TO PLACE A LEIN ON AND/OR SEEK A COURT-ORDERED PUBLIC AUCTION OF ANY FARM PROPERTY OR EQUIPMENT NECESSARY TO RECOUP UNPAID PENALTIES UNDER THIS CHAPTER.

(3) IN ADDITION, A VIOLATION OF THIS PART 2 CONSTITUTES UNFAIR AND DECEPTIVE TRADE PRACTICES FOR WHICH ANY PERSON MAY COMMENCE A CIVIL ACTION UNDER SECTION 6-1-113 OF THE COLORADO CONSUMER PROTECTION ACT.

35-21-206. ENFORCEMENT - RULES.

(1) THE COMMISSIONER SHALL ENFORCE THIS PART 2. A FARM OWNER OR OPERATOR OR A BUSINESS OWNER OR OPERATOR SHALL ALLOW THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE ACCESS DURING REGULAR BUSINESS HOURS TO THE FARM OR BUSINESS, VEHICLES, AND RECORDS PERTINENT TO ACTIVITIES REGULATED IN THIS PART 2.

(2) THE COMMISSIONER SHALL PROMULGATE RULES GOVERNING THE ENFORCEMENT OF THIS PART 2, INCLUDING RULES GOVERNING THE INSPECTION OF FARMS, SHELL EGGS, EGG PRODUCTS, PORK, AND VEAL SOLD IN COLORADO ARE PRODUCED IN COMPLIANCE WITH THIS PART 2.

(3) THE COMMISSIONER MAY NOT USE A GOVERNMENT OR PRIVATE INSPECTION OR PROCESS VERIFICATION PROVIDER TO ENSURE COMPLIANCE WITH THIS PART 2.

35-21-209. EFFECTS ON OTHER ANIMAL WELFARE LAWS. THIS PART 2 DOES NOT LIMIT OR REPLACE ANY OTHER STATE STATUTE OR RULE THAT PROTECTS THE WELFARE OF ANIMALS. THIS PART 2 DOES NOT PREEMPT A LOCAL GOVERNING BODY FROM ADOPTING AND ENFORCING ITS OWN ANIMAL

WELFARE ORDINANCE, RULE, RESOLUTION, OR CHARTER PROVISION THAT IS MORE STRINGENT THAN THIS PART 2.

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