

Calendar No. 319

103D CONGRESS
1ST SESSION

S. 717

A BILL

To amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 3), 1993

Mr. PRYOR (for himself, Mr. HEFLIN, Mr. COCHRAN, Mr. COATS, Mr. GORTON, Mr. RIEGLE, Mr. BUMPERS, and Mr. HELMS) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

NOVEMBER 19 (legislative day, NOVEMBER 2), 1993

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Egg Research and
3 Consumer Information Improvement Act of 1993”.

4 **SEC. 2. RATE OF ASSESSMENT.**

5 (a) ~~IN GENERAL.~~—Section 8(e) of the Egg Research
6 and Consumer Information Act (7 U.S.C. 2707(e)) is
7 amended—

8 (1) by designating the first and second sen-
9 tences as paragraph (1);

10 (2) by designating the fifth and sixth sentences
11 as paragraph (3); and

12 (3) by striking the third and fourth sentences
13 and inserting the following new paragraph:

14 “~~(2)~~ The rate of assessment shall be prescribed by
15 the order. The rate shall not exceed 30 cents per case of
16 commercial eggs or the equivalent of a case. Subject to
17 the preceding sentence, the order may be amended to
18 change the rate of assessment if the change is rec-
19 ommended by the Egg Board and approved by egg produc-
20 ers in a referendum conducted under section 9(b).”.

21 (b) ~~REFERENDUM.~~—Section 9 of such Act (7 U.S.C.
22 2708) is amended—

23 (1) by designating the first and second sen-
24 tences as subsection (a);

25 (2) by designating the third sentence as sub-
26 section (c); and

1 ~~(3)~~ by inserting after subsection (a) (as des-
2 ignated by paragraph (1) of this subsection) the fol-
3 lowing new subsection:

4 ~~“(b)(1) If the Egg Board determines, based on a sci-
5 entific study, marketing analysis, or other similar com-
6 petent evidence, that an increase in the rate of assessment
7 is needed to ensure that the assessment under the order
8 is established at an appropriate level to effectuate the de-
9 clared policy of this Act, the Egg Board may request that
10 the Secretary conduct a referendum, as provided in para-
11 graph (2).~~

12 ~~“(2) If the Egg Board requests the Secretary to con-
13 duct a referendum under paragraph (1) or (4), the Sec-
14 retary shall conduct a referendum among egg producers
15 who are not exempt from this Act and who, during a rep-
16 resentative period determined by the Secretary, have been
17 engaged in the production of commercial eggs, for the pur-
18 pose of ascertaining whether the producers approve the
19 change in the rate of assessment proposed by the Egg
20 Board.~~

21 ~~“(3) The change in the assessment rate shall become
22 effective if the change is approved or favored by—~~

23 ~~“(A) not less than two-thirds of the producers
24 voting in the referendum; or~~

1 “(B) a majority of the producers voting in the
2 referendum, if the majority produced not less than
3 two-thirds of all the commercial eggs produced by
4 the producers voting during a representative period
5 defined by the Secretary.

6 “(4) In the case of the order in effect on the date
7 of the enactment of this subsection, the Egg Board shall
8 determine under paragraph (1), as soon as practicable
9 after such date of enactment, whether to request that the
10 Secretary conduct a referendum under paragraph (2). If
11 the Egg Board makes such a request on competent evi-
12 dence, as provided in paragraph (1), the Secretary shall
13 conduct the referendum as soon as practicable, but not
14 later than 90 days after receipt of the request from the
15 Egg Board.

16 “(5) Notwithstanding any other provision of this Act,
17 if an increase in the assessment rate and the authority
18 for additional increases is approved by producers in a ref-
19 erendum conducted under this subsection, the Secretary
20 shall amend the order to reflect the vote of the producers.
21 The amendment to the order shall become effective on the
22 date of issuance.”

23 **SEC. 3. EXEMPTED EGG PRODUCERS.**

24 Section 12(a)(1) of the Egg Research and Consumer
25 Information Act (7 U.S.C. 2711(a)(1)) is amended by

1 striking “30,000 laying hens” and inserting “50,000 lay-
2 ing hens”.

3 **SEC. 4. AMENDMENTS TO ORDER.**

4 (a) ~~IN GENERAL.~~—The Secretary of Agriculture shall
5 issue amendments to the order issued pursuant to the Egg
6 Research and Consumer Information Act (~~7 U.S.C. 2701~~
7 ~~et seq.~~) to implement the amendments made by this Act.
8 The amendments shall be issued after public notice and
9 opportunity for comment in accordance with section 553
10 of title 5, United States Code, and without regard to sec-
11 tions 556 and 557 of such title. The Secretary shall issue
12 the proposed amendments to the order not later than 30
13 days after the date of the enactment of this Act.

14 (b) ~~EFFECTIVE DATE.~~—The amendments to the
15 order required by subsection (a) shall become effective not
16 later than 90 days, as determined by the Secretary, after
17 the date of the enactment of this Act. The amendments
18 shall not be subject to a referendum conducted under the
19 Egg Research and Consumer Information Act.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Egg Research and*
22 *Consumer Information Act Amendments of 1993”.*

1 **SEC. 2. ASSESSMENT RATE.**

2 (a) *IN GENERAL.*—Section 8(e) of the Egg Research
3 and Consumer Information Act (7 U.S.C. 2707(e)) is
4 amended—

5 (1) by designating the first and second sentences
6 as paragraph (1);

7 (2) by designating the fifth and sixth sentences
8 as paragraph (3); and

9 (3) by striking the third and fourth sentences
10 and inserting the following new paragraph:

11 “(2)(A) The assessment rate shall be prescribed by the
12 order. The rate shall not exceed 20 cents per case (or the
13 equivalent of a case) of commercial eggs.

14 “(B) The order may be amended to increase the rate
15 of assessment if the increase is recommended by the Egg
16 Board and approved by egg producers in a referendum con-
17 ducted under section 9(b).

18 “(C) The order may be amended to decrease the assess-
19 ment rate after public notice and opportunity for comment
20 in accordance with section 553 of title 5, United States
21 Code, and without regard to sections 556 and 557 of such
22 title.”.

23 (b) *REFERENDUM.*—Section 9 of such Act (7 U.S.C.
24 2708) is amended—

25 (1) by designating the first and second sentences
26 as subsection (a);

1 (2) by designating the last sentence as subsection
2 (c); and

3 (3) by inserting after subsection (a) (as des-
4 ignated by paragraph (1)) the following new sub-
5 section:

6 “(b)(1) If the Egg Board determines, based on a sci-
7 entific study, marketing analysis, or other similar com-
8 petent evidence, that an increase in the assessment rate is
9 needed to ensure that assessments under the order are set
10 at an appropriate level to effectuate the policy declared in
11 section 2, the Egg Board may request that the Secretary
12 conduct a referendum, as provided in paragraph (2).

13 “(2)(A) If the Egg Board requests the Secretary to con-
14 duct a referendum under paragraph (1) or (3), the Sec-
15 retary shall conduct a referendum among egg producers not
16 exempt from this Act who, during a representative period
17 determined by the Secretary, have been engaged in the pro-
18 duction of commercial eggs, for the purpose of ascertaining
19 whether the producers approve the change in the assessment
20 rate proposed by the Egg Board.

21 “(B) The change in the assessment rate shall become
22 effective if the change is approved or favored by—

23 “(i) not less than two-thirds of the producers vot-
24 ing in the referendum; or

1 “(ii) a majority of the producers voting in the
2 referendum, if the majority produced not less than
3 two-thirds of all the commercial eggs produced by the
4 producers voting during a representative period de-
5 fined by the Secretary.

6 “(3)(A) In the case of the order in effect on the date
7 of enactment of this subsection, the Egg Board shall deter-
8 mine under paragraph (1), as soon as practicable after such
9 date of enactment, whether to request that the Secretary
10 conduct a referendum under paragraph (2).

11 “(B) If the Egg Board makes such a request on the
12 basis of competent evidence, as provided in paragraph (1),
13 the Secretary shall conduct the referendum as soon as prac-
14 ticable, but not later than—

15 “(i) 120 days after receipt of the request from the
16 Egg Board; or

17 “(ii) if the Director of the Office of Management
18 and Budget determines that the change in the assess-
19 ment rate is a significant action that requires review
20 by the Director, 170 days after receipt of the request
21 from the Egg Board.

22 “(4) Notwithstanding any other provision of this Act,
23 if an increase in the assessment rate and the authority for
24 additional increases is approved by producers in a referen-
25 dum conducted under this subsection, the Secretary shall

1 *amend the order to reflect the vote of the producers. The*
2 *amendment to the order shall become effective on the date*
3 *of issuance of the amendment.”.*

4 **SEC. 3. EXEMPTED PRODUCERS.**

5 *Section 12(a)(1) of the Egg Research and Consumer*
6 *Information Act (7 U.S.C. 2711(a)(1)) is amended by strik-*
7 *ing “30,000 laying hens” and inserting “75,000 laying*
8 *hens”.*

9 **SEC. 4. AMENDMENT TO ORDER.**

10 *Notwithstanding any other provision of law:*

11 *(1) IN GENERAL.—The Secretary of Agriculture*
12 *shall issue amendments to the egg promotion and re-*
13 *search order issued under the Egg Research and*
14 *Consumer Information Act (7 U.S.C. 2701 et seq.) to*
15 *implement the amendments made by this Act. The*
16 *amendments shall be issued after public notice and*
17 *opportunity for comment in accordance with section*
18 *553 of title 5, United States Code, and without regard*
19 *to sections 556 and 557 of such title. The Secretary*
20 *shall issue the proposed amendments to the order not*
21 *later than 90 days after the date of enactment of this*
22 *Act.*

23 *(2) EFFECTIVE DATE.—The amendments to the*
24 *egg promotion and research order required by para-*
25 *graph (1) shall become effective not later than—*

1 (A) 30 days after the date of enactment of
2 this Act; or

3 (B) if the Director of the Office of Manage-
4 ment and Budget determines that the amend-
5 ments are a significant action that requires re-
6 view by the Director, 50 days after the date of
7 enactment of this Act.

8 (3) *REFERENDUM.*—The amendments referred to
9 in paragraph (2) shall not be subject to a referendum
10 conducted under the Egg Research and Consumer In-
11 formation Act.