

Senate Engrossed

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 32

# **SENATE BILL 1373**

AN ACT

AMENDING SECTION 3-701, ARIZONA REVISED STATUTES; REPEALING SECTION 3-702,  
ARIZONA REVISED STATUTES; AMENDING SECTION 3-710, ARIZONA REVISED STATUTES;  
RELATING TO POULTRY HUSBANDRY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-701, Arizona Revised Statutes, is amended to  
3 read:

4 3-701. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Agent" includes a bailee, broker, commission merchant, factor,  
7 auctioneer, solicitor, consignee and any other person acting upon the express  
8 or implied authority of another person.

9 2. "Associate director" means the associate director of the division.

10 3. "CANDLING" MEANS THE VISUAL EXAMINATION OF EGGS TO ESTABLISH THEIR  
11 QUALITY BY THE USE OF TRANSMITTED LIGHT TO DETERMINE THE CLEANLINESS AND  
12 SOUNDNESS OF THE SHELL, THE SIZE AND CONDITION OF THE AIRCELL AND THE  
13 CONDITION OF THE YOLK, WHITE AND GERM.

14 ~~3-~~ 4. "Carton" means egg cartons as used in commercial practice in  
15 the United States.

16 ~~4-~~ 5. "Case" means standard thirty-dozen egg cases as used in  
17 commercial practice in the United States.

18 ~~5-~~ 6. "Consumer" means a person who buys eggs for use as food and not  
19 for resale in any form.

20 ~~6-~~ 7. "Container" means any box, one-half case, basket, flat or other  
21 receptacle, excluding a carton as defined in paragraph 3 and excluding a case  
22 as defined in paragraph 4.

23 ~~7-~~ 8. "Dealer" means any person who contracts or obtains from the  
24 producer, or any producer-dealer, dealer or manufacturer, possession or  
25 control of any eggs or egg products for the purpose of candling, grading,  
26 selling, peddling, distributing, dealing in or trading in eggs or egg  
27 products for resale to an egg dealer within this state, producer-dealer,  
28 manufacturer, retailer or consumer for human consumption within this state.

29 ~~8-~~ 9. "Deceptive" means any arrangement of the contents of any case,  
30 container, subcontainer, lot, load or display in which the eggs in the outer  
31 layer or in any portion exposed to view are in grade, size, condition or any  
32 other respect so superior to those in the interior or unexposed portion as to  
33 materially misrepresent the contents or any part of the contents as to size,  
34 grade, condition or any other respects.

35 ~~9-~~ 10. "Division" means the animal services division of the Arizona  
36 department of agriculture.

37 11. "EGG PRODUCTS" MEANS EGGS REMOVED FROM THE SHELL IN A LIQUID,  
38 FROZEN, DRIED OR FREEZE-DRIED STATE. THE PRODUCT MAY CONSIST OF WHOLE EGGS,  
39 YOLKS, WHITES, OR ANY BLEND OF YOLK AND WHITE, WITH OR WITHOUT ADDITIVES, IF  
40 EGGS ARE THE MAIN INGREDIENT.

41 12. "EGGS" MEANS EGGS IN THE SHELL FROM CHICKENS, TURKEYS, DUCKS, GEESE  
42 OR ANY OTHER SPECIES OF FOWL.

1       ~~10.~~ 13. "Expiration date" means the words "sell by" or "buy thru"  
2 followed by a date, including the month and day, that is not more than  
3 twenty-four days after the eggs were candled and that includes the date the  
4 eggs were candled.

5       ~~11.~~ 14. "Grade" means classified as to quality and applies to a dozen,  
6 case, lot or load of eggs.

7       ~~12.~~ 15. "Half case" means a fifteen-dozen container or one-half  
8 standard thirty-dozen egg case as used in commercial practice in the United  
9 States.

10       ~~13.~~ 16. "Inspector" means an egg inspector appointed or assigned  
11 pursuant to section 3-709.

12       ~~14.~~ 17. "Manufacturer" means a person engaged in the business of  
13 operating or controlling the operation of one or more breaking plants  
14 producing liquid eggs, dried eggs, frozen eggs or other egg products for  
15 human consumption.

16       ~~15.~~ 18. "Marked" means plainly, legibly and conspicuously labeled,  
17 stamped, stenciled, printed, typed, lettered or branded.

18       ~~16.~~ 19. "Mislabel" means the placing or presence of any false,  
19 deceptive or misleading mark, term, statement, design, device, inscription or  
20 other designation upon eggs or upon a carton, container or subcontainer of  
21 eggs, or upon the label or lining or wrapper thereof, or upon the outward end  
22 of the case, or upon a placard or sign used in connection therewith, or in  
23 connection with any display having reference to eggs.

24       ~~17.~~ 20. "Nest run eggs" means eggs that are packed as they come from  
25 the production facilities without having been washed, sized or candled for  
26 quality, regardless of whether some undergrades have been removed.

27       ~~18.~~ 21. "Person" includes an individual, household, firm, corporation,  
28 company or association.

29       22. "PROCESSED" MEANS THAT THE SHELL HAS BEEN TREATED WITH OIL OR  
30 ANOTHER PRESERVATIVE PREPARATION.

31       ~~19.~~ 23. "Producer" means a person engaged in the business of operating  
32 or controlling the operation of one or more ranches producing eggs within  
33 this state.

34       ~~20.~~ 24. "Producer-dealer" means a person engaged in the business of  
35 operating or controlling the operation of one or more egg ranches producing  
36 eggs within the state, and who, while in possession or control of any  
37 additional eggs other than the person's own production, candles, grades,  
38 sells, peddles, distributes, deals in or trades in eggs for resale to  
39 dealers, producer-dealers, manufacturers or retailers.

40       ~~21.~~ 25. "Quality" means the inherent properties of any product which  
41 determine its relative degree of excellence.

42       ~~22.~~ 26. "Retailer" means a person who buys candled and graded eggs or  
43 egg products from a producer, licensed manufacturer, licensed producer-dealer  
44 or licensed dealer for resale to a consumer only, or who buys egg products to  
45 use in the preparation of other consumer foods for resale.

1       ~~23-~~ 27. "Sell" includes offer for sale, expose for sale, have in  
2 possession for sale, exchange, barter or trade.

3       ~~24-~~ 28. "Size" means classified as to weight.

4       ~~25-~~ 29. "Standard" means the quality specifications for a single egg.

5       ~~26-~~ 30. "Subcontainer" means a container that is used within another  
6 container.

7       ~~27-~~ 31. "Supervisor" means the supervisor of egg inspection or the  
8 supervisor's authorized representative.

9       Sec. 2. Repeal

10       Section 3-702, Arizona Revised Statutes, is repealed.

11       Sec. 3. Section 3-710, Arizona Revised Statutes, is amended to read:

12       3-710. Powers and duties

13       A. The department may acquire and distribute to persons interested  
14 useful information relative to the preparation for market, handling,  
15 purchasing, transportation, storage and marketing of eggs and egg products,  
16 including the demonstration of how to classify eggs and egg products in  
17 accordance with the uniform standards and grades prescribed pursuant to this  
18 chapter.

19       B. The department may issue in booklet form copies of this article  
20 containing complete descriptive terms as to shell, aircell, white, yolk and  
21 germ, and may make changes in definitions of terms and grades as they are  
22 made and promulgated by the United States department of agriculture.

23       C. Upon request of the United States government, and others, the  
24 director may negotiate and sign cooperative agreements to do inspection and  
25 grading services and charge and receive payment for the reasonable cost  
26 thereof. The funds received for such services shall be deposited, pursuant  
27 to sections 35-146 and 35-147, in the state egg inspection ~~account~~ FUND.

28       D. When the production of papers, books and records relating to any  
29 matter under investigation is deemed advisable, the director may apply to the  
30 superior court in any county for an order requiring the production of the  
31 papers, books and records. If the court is satisfied that the papers, books  
32 and records are pertinent to the matter under investigation, their production  
33 shall be ordered.

34       E. A complaint filed with the department charging a noncompliance with  
35 or violation of any provision of this article shall be in writing and signed  
36 by the complainant.

37       F. The supervisor and inspectors shall enforce the provisions of this  
38 article in conformity with rules adopted by the director. The refusal of an  
39 officer authorized under this article to carry out the orders and directions  
40 of the director in the enforcement of this article or prosecutions thereunder  
41 is neglect of duty. The director shall make and enforce such rules as he  
42 deems necessary to carry out the provisions of this article.

1 G. An inspector may enter and inspect any place or conveyance within  
2 the state over which he has supervision where eggs are produced, candled,  
3 incubated, stored, packed, delivered for shipment, loaded, shipped,  
4 transported or sold, and may inspect all invoices, eggs and the cases and  
5 containers thereof and equipment found in the places or conveyances, and may  
6 take for inspection representative samples of the invoices, eggs and cases or  
7 containers for the purpose of determining whether or not any provision of  
8 this article has been violated.

9 H. An inspector may, while enforcing the provisions of this article,  
10 seize and hold as evidence an advertisement, sign, placard, invoice, case or  
11 container of eggs or egg products or all or any part of any pack, load, lot  
12 consignment or shipment of eggs or egg products packed, stored, delivered for  
13 shipment, loaded, shipped, transported or sold in violation of any provisions  
14 of this article.

15 I. THE DEPARTMENT MAY PRESCRIBE MINIMUM STANDARDS FOR EGG PROCESSING  
16 PLANTS AND SANITARY STANDARDS FOR THE PROCESSING OF SHELL EGGS. THE  
17 DEPARTMENT SHALL ESTABLISH THESE STANDARDS BY RULE. CHEMICALS USED IN EGG  
18 PROCESSING PLANTS, SANITIZERS USED IN EGG PROCESSING, EGG SOAPS, EGG OIL AND  
19 OTHER SUBSTANCES USED IN PROCESSING SHELL EGGS ARE SUBJECT TO THE APPROVAL OF  
20 THE DIRECTOR.

21 J. THE DIRECTOR SHALL ADOPT RULES FOR POULTRY HUSBANDRY AND THE  
22 PRODUCTION OF EGGS SOLD IN THIS STATE. THIS SUBSECTION DOES NOT APPLY TO EGG  
23 PRODUCERS OPERATING OR CONTROLLING THE OPERATION OF ONE OR MORE EGG RANCHES  
24 EACH HAVING FEWER THAN TWENTY THOUSAND EGG-LAYING HENS PRODUCING EGGS.

25 K. CONSISTENCY OF POULTRY HUSBANDRY PRACTICES FOR THE PRODUCTION OF  
26 EGGS IS A STATEWIDE MATTER. THE REGULATION OF POULTRY HUSBANDRY PRACTICES  
27 RELATED TO THE PRODUCTION OF EGGS IS NOT SUBJECT TO FURTHER REGULATION BY A  
28 COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

APPROVED BY THE GOVERNOR APRIL 14, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2008.