Calif. Egg Producers Dispute Prop 2

TRACIE CONE,Associated Press

FRESNO, Calif. (AP) — California's landmark Proposition 2 said chickens in cages must be able to stand up and stretch their wings without touching cage walls. Whether that means one chicken at a time or a bunch at once is the impetus behind the third lawsuit filed by egg farmers since passage of the ballot measure.

A group of egg farmers sued California late Friday in Fresno County Superior Court, saying the statute is unconstitutionally vague.

The legal action came on the heels of a federal court decision in August on a similar claim in which the judge upheld the law.

"If we can't get clarity on what Prop 2 means, the number of producers will go down significantly and then the cost of eggs will go up," said attorney Dale Stern, who is representing about three-quarters of state producers in the Association of California Egg Farmers.

The 2008 initiative sponsored by the Humane Society of the United States was intended to free chickens from the cramped, bare-wire cages used by most producers and that provided less floor space than a standard sheet of paper. The law, which goes into effect in January 2015, says chickens must be able to engage in natural behaviors — such as roosting and scratching — and should be able to stand up and stretch their wings.

Since its passage, farmers have complained that the measure lacks specific language designating appropriate cage size and as a result puts them at risk of misdemeanor charges and fines up to $1,000. In addition, they say they are on the hook for millions of dollars in upgrades but can't get bank loans without knowing whether new cages will be in compliance.

The animal welfare group and the national United Egg Producers teamed up earlier this year to sponsor federal legislation that would settle the question regarding all of the nation's 270 million laying hens. If it passes, the measure would amend the Egg Products Inspection Act to give chickens 125 square inches of space within 15 years, a period that would allow farmers to gradually upgrade housing systems.

California farmers would have to adhere to the same cage sizes but still meet the Prop 2 deadline in 2015.

California farmers say they need time to comply with the state law and can't wait for Congress to act on the proposed federal legislation. They first went to court two years ago when Modesto-based producer J.S. West asked a Fresno County judge to decide if the company's new system met the requirements. The judge declined to issue a ruling.

"It wasn't a challenge to the law, it was just a 'hey your honor, does this work?'" Stern said.

Earlier this year, a Riverside County egg farmer challenged the law as being vague, but U.S. District Court Judge John F. Walker upheld it.

"You can't keep filing the same claim over and over again hoping for a different result," said attorney Jonathan Lovvorn of the Humane Society of the United States. "A federal judge was walked through the arguments and said it doesn't take Colombo to figure out what this law means. They're judge shopping."

Stern said state due process laws give more leeway by allowing the court to determine if implementation is impractical.

"A federal judge has decided if you take one bird and measure it, then you've got an interpretation that fits," he said. "But a single bird in a single enclosure is not practical because not a single egg producer could operate with that expense."

Source URL (retrieved on *08/20/2014 - 11:01am*):
http://www.foodmanufacturing.com/news/2012/11/calif-egg-producers-dispute-prop-2