

Egg farmers want state law changing hen space to be tossed

By Stacy Finz

California's egg farmers filed a lawsuit against the state late last week, arguing yet again that new standards for confining egg-laying hens under Proposition 2 are too vague to be enforced. They're asking that the law, which goes into effect in January 2015, be abolished.

The lawsuit marks the third legal challenge to Prop. 2 since its passage in 2008. The two previous suits failed.

The latest lawsuit, filed in Fresno Superior Court by the Association of California Egg Farmers, claims the organization has "exhausted all available avenues for seeking clarification" on the state initiative.

Farmers say that before they spend an estimated \$400 million on the larger cages required by the law, they'd like to know what size to make them. Nowhere in the statute does it give those dimensions, according to the suit.

The legislation requires farmers to provide hens enough room to stand up, turn around and spread their wings. Currently, each egg-laying bird is caged in about 67 square inches of space. California is the fifth largest egg-producing state in the nation- about a \$1 billion-a-year business.

"The farmers support the idea of giving the hens more space," said Dale Stern, one of the attorneys representing the trade organization. "But the state has never said what that should be. The farmers just need some help."

The Humane Society of the United States, which supported the

bill, and two judges – one state and one federal – have said the law is clear.

“Just like consumers shop around for the best eggs, these guys are shopping around for the best judge,” said Jonathan Lovvorn, chief lawyer for the Humane Society. “If animal activists did this they’d be sanctioned by the court. Enough is enough.”

The state attorney general’s office had not yet been served with the suit, but spokeswoman Lynda Gledhill said, “We will continue to defend the law.”

Federal Judge John Walter out of the Central District, who dismissed the second lawsuit, said there was nothing abstract about the statute.

“Prop. 2 provides a person of ordinary intelligence more than a reasonable opportunity to know what is prohibited and provides explicit and objective standards to prevent discriminatory enforcement,” Walter ruled.

“Although the Court could answer this question if it had the opportunity to measure the wing span of an average egg-laying hen, the answer to this question is certainly not a mystery and is capable of easy determination by egg farmers, who have been in this business for decades,” Walter said.

Lovvorn said the Humane Society estimates that it’s probably about 200 square inches per bird. “But the law doesn’t mandate a size, it mandates performance,” he said.

Arnie Riebli, a Sonoma egg farmer and president of the Association of California Egg Farmers, said the Humane Society has been all over the map on that number.

“If you’re going to charge me with a crime, at least tell me what the crime is,” he said.

In the meantime, a federal law is in the works that would

enforce national standards for egg farmers.

That proposal calls for 116 square inches of space per bird and would pre-empt Prop. 2. The country's egg farmers would have until 2029 to expand cages to that size. Stern said the federal plan, currently working its way through Congress, further creates a quandary for farmers.

"If they would take a consistent position, it would help," he said.