



Susan Garrett

Filed: 2/18/2004

09300SB3112sam002

LRB093 15774 DRJ 47592 a

1 AMENDMENT TO SENATE BILL 3112

2 AMENDMENT NO. _____. Amend Senate Bill 3112 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Safe
5 Bottled Water Act.

6 Section 5. Definitions. In this Act:

7 "Bottled water" means any water that is placed in a sealed
8 container at a water-bottling plant to be used for drinking,
9 culinary, or other purposes involving a likelihood of the water
10 being ingested by humans. "Bottled water" does not include
11 water packaged with the approval of the Department for use in a
12 public emergency.

13 "Department" means the Department of Public Health.

14 "Private water source" means a privately owned source of
15 water in Illinois, other than a public water system or private
16 water system as defined in the Illinois Groundwater Protection
17 Act, that is used for bottled or vended water and meets the
18 requirements of an approved source for bottled water as defined
19 in Section 129.3 of Title 21 of the Code of Federal
20 Regulations.

21 "Retail water facility" means any commercial establishment
22 where vended water is sold, and placed in customers'
23 containers, or placed in containers sold or given to customers
24 who come to the establishment to obtain water.

1 "Vended water" means any water that is dispensed by a
2 water-vending machine or retail water facility, or water from a
3 private water source, and that is dispensed by a water-vending
4 machine, retail water facility, water hauler, or any other
5 person or facility for drinking, culinary, or other purposes
6 involving a likelihood of the water being ingested by humans.
7 "Vended water" does not include water from a public water
8 system that has not undergone additional treatment. Water sold
9 without further treatment is not "vended water".

10 "Water-bottling plant" means any facility in which bottled
11 water is produced.

12 "Water-vending machine" means any self-service device
13 that, upon insertion of a coin, coins, or token, or upon
14 receipt of payment by any other means, dispenses a unit volume
15 of water to be used for drinking, culinary, or other purposes
16 involving a likelihood of the water being ingested by humans.

17 Section 10. Licenses required.

18 (a) No person may operate a water-bottling plant or a
19 private water source in this State, except pursuant to a
20 license issued by the Department. Bottled water must be
21 processed in conformance with 21 CFR Part 129 and must conform
22 to 21 CFR Part 165. If a person has a valid water-bottling
23 plant license issued by the Department, additional license fees
24 for a private water source operator based and operating at the
25 same address shall not be required.

26 (b) Any bottled water produced by a private water source or
27 water-bottling plant that is not licensed in compliance with
28 this Act is misbranded and may be embargoed.

29 (c) It is unlawful for a water bottler, water distributor,
30 water-vending machine owner, retail water facility, or private
31 water source operator to sell or otherwise distribute water
32 that is unsafe for use or that is adulterated or misbranded as
33 provided in the Illinois Food, Drug and Cosmetic Act.

1 (d) The licensing of activities relating to bottled water
2 as provided in this Section is an exclusive power and function
3 of the State. A home rule unit may not license any activities
4 relating to bottled water that are licensed under this Section.
5 This subsection is a denial and limitation of home rule powers
6 and functions under subsection (h) of Section 6 of Article VII
7 of the Illinois Constitution.

8 Section 15. Inspections and related activities.

9 (a) In order to carry out the purposes of this Act, any
10 duly authorized representative of the Department may, at any
11 reasonable hour of the day, do any of the following:

12 (1) Enter a inspect a licensed facility or any place
13 where bottled water or vended water records are stored,
14 kept, or maintained.

15 (2) Inspect and copy any records, reports, test
16 results, or other information required to implement this
17 Act.

18 (3) Obtain samples of the water supply and finished
19 product.

20 (b) The Department shall inspect every water-bottling
21 plant and private water source at least once each year. The
22 Department shall provide an opportunity for a representative of
23 the water-bottling plant or private water source operator to
24 accompany the Department's representative during the
25 inspection.

26 (c) Any person who prevents, interferes with, or attempts
27 to impede in any way any duly authorized representative of the
28 Department from undertaking any activity authorized by this
29 Section is guilty of a Class A misdemeanor.

30 Section 20. Water intended for bottling; storage,
31 transportation, and processing.

32 (a) Water intended for bottling shall not be stored,

1 transported, processed, or bottled through equipment or lines
2 used for any non-food product.

3 (b) Water intended for bottling shall not be stored,
4 transported, processed, or bottled through equipment or lines
5 used for any dairy product or non-beverage food, except that
6 filling equipment may be used for dairy products and
7 non-beverage foods in accordance with the following
8 requirements:

9 (1) When filling equipment designed for cleaning in
10 place is utilized for dairy products or non-beverage foods,
11 that equipment must be thoroughly cleaned and sanitized in
12 place in accordance with procedures specified by the
13 manufacturer and in 21 CFR Part 129 prior to being used for
14 bottled water.

15 (2) Fillers not designed for cleaning in place must be
16 completely disassembled for cleaning and sanitizing prior
17 to being used for bottled water.

18 Section 25. License fee. The fee for any license issued
19 under this Act is \$150. The fee must be paid to the Department
20 before a license may be issued. Licenses issued under this Act
21 shall be issued annually. Licenses must be renewed annually on
22 or before January 1 of the year for which they are issued. The
23 Department may impose an additional fee of \$50 on a person who
24 submits an application for a license after the deadline. The
25 Department shall use all fees received under this Act for the
26 purpose of recouping the costs of providing the services
27 required to be provided by the Department under this Act.

28 Section 30. Water-bottling plants located outside
29 Illinois. Every water-bottling plant located outside Illinois
30 that sells or distributes bottled water in Illinois must
31 annually register with the Department. The fee for registration
32 under this Act is \$150. The Department may impose an additional

1 fee of \$50 on an out-of-state water-bottling plant that
2 registers after the deadline set by the Department.

3 Section 35. Safe Bottled Water Fund. The Safe Bottled Water
4 Fund is established as a special fund in the State treasury.
5 All moneys received by the Department under this Act shall be
6 deposited into the fund. Moneys in the fund shall be used by
7 the Department, upon appropriation, for the purpose of
8 administering this Act.

9 Section 40. Denial, revocation, or suspension of license.

10 (a) The Department may deny any license application or
11 revoke or suspend any license issued under this Act for cause.
12 The Department shall inform the applicant or license holder of
13 the denial, revocation, or suspension in writing, stating with
14 particularity the reasons for the denial, revocation, or
15 suspension. The Department shall afford the applicant or
16 license holder an opportunity for a hearing in accordance with
17 the Illinois Administrative Procedure Act.

18 (b) For purposes of this Section, "cause" means a violation
19 of any provision of this Act or any regulation adopted pursuant
20 to this Act.

21 Section 45. Potential contamination.

22 (a) Upon a determination by the Department that a
23 particular water source is subject to potential contamination,
24 the Department shall notify the appropriate bottler,
25 distributor, or vendor of bottled water, owner or operator of a
26 water-vending machine, water hauler, retail water facility
27 operator, or private water source operator of the specific
28 contaminants or class of contaminants that pose a potential
29 health risk.

30 (b) Within 7 days after notification by the Department, the
31 bottler, distributor, or vendor of bottled water, owner or

1 operator of a water-vending machine, water hauler, retail water
2 facility operator, or private water source operator must
3 conduct an analysis of the water source and submit the results
4 of the analysis to the Department.

5 (c) If evidence of contamination is found, the Department
6 may, by order, require the bottler of bottled water, owner or
7 operator of a water-vending machine, or private water source
8 operator to conduct an analysis of the finished water product
9 for the contaminants of concern in accordance with conditions
10 specified by the Department. The water analysis must be
11 conducted and reported on an annual basis, unless the
12 Department finds that reasonable action requires either more
13 frequent or less frequent analysis.

14 Section 50. Testing laboratories. All testing of bottled
15 water, bottled water sources, water distributed by water
16 haulers, water from retail water facilities, and water from
17 vending machines must be done by competent laboratories
18 approved by the Department or another state's regulatory
19 agency.

20 Section 55. Water packaged for use in public emergencies.

21 (a) The Department, by its written permission, may allow a
22 person to package water for use in public emergencies without
23 obtaining a water bottling license if the emergency has
24 resulted in the interruption of, or has compromised the quality
25 of, the public drinking water supply. The Department's
26 permission may authorize the suspension of any provision of
27 this Act and related regulations.

28 (b) The Department may at any time change or impose on the
29 permittee any requirements, such as requirements concerning
30 testing, equipment, and documentation, that the Department
31 deems necessary to protect public health, but in doing so, the
32 Department must consider the effect of those requirements in

1 light of the urgency of the situation. The Department may grant
2 or withdraw this permission at any time.

3 (c) Packing, distribution, and use of water under a permit
4 shall be allowed only during the emergency period and shall end
5 upon the restoration of adequate public drinking supplies as
6 determined by the Department. Distribution of the packaged
7 water shall be limited to the area affected. Water so packaged
8 shall be prominently labeled "drinking water", "for emergency
9 use only", and "not for sale", or similar wording approved by
10 the Department.

11 (d) This Section shall not be construed to restrict
12 licensed water-bottling plants from providing water processed
13 in accordance with this Act in emergency situations.

14 Section 60. Violation; penalty. A person who commits a
15 violation of this Act other than a violation of subsection (c)
16 of Section 15 is guilty of a petty offense and subject to a
17 fine of not more than \$1,000.

18 Section 90. The State Finance Act is amended by adding
19 Section 5.625 as follows:

20 (30 ILCS 105/5.625 new)

21 Sec. 5.625. The Safe Bottled Water Fund.

22 Section 99. Effective date. This Act takes effect January
23 1, 2005."