

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Food Handling Regulation Enforcement Act is
5 amended by changing Section 3.3 as follows:

6 (410 ILCS 625/3.3)

7 Sec. 3.3. Farmers' markets.

8 (a) The General Assembly finds as follows:

9 (1) Farmers' markets, as defined in subsection (b) of
10 this Section, provide not only a valuable marketplace for
11 farmers and food artisans to sell their products directly
12 to consumers, but also a place for consumers to access
13 fresh fruits, vegetables, and other agricultural products.

14 (2) Farmers' markets serve as a stimulator for local
15 economies and for thousands of new businesses every year,
16 allowing farmers to sell directly to consumers and capture
17 the full retail value of their products. They have become
18 important community institutions and have figured in the
19 revitalization of downtown districts and rural
20 communities.

21 (3) Since 1999, the number of farmers' markets has
22 tripled and new ones are being established every year.
23 There is a lack of consistent regulation from one county to

1 the next, resulting in confusion and discrepancies between
2 counties regarding how products may be sold.

3 (4) In 1999, the Department of Public Health published
4 Technical Information Bulletin/Food #30 in order to
5 outline the food handling and sanitation guidelines
6 required for farmers' markets, producer markets, and other
7 outdoor food sales events.

8 (5) While this bulletin was revised in 2010, there
9 continues to be inconsistencies, confusion, and lack of
10 awareness by consumers, farmers, markets, and local health
11 authorities of required guidelines affecting farmers'
12 markets from county to county.

13 (6) Recognizing that farmers' markets serve as small
14 business incubators and that farmers' profit margins
15 frequently are narrow, even in direct-to-consumer retail,
16 protecting farmers from costs of regulation that are
17 disproportionate to their profits will help ensure the
18 continued viability of these local farms and small
19 businesses.

20 (b) For the purposes of this Section:

21 "Department" means the Department of Public Health.

22 "Director" means the Director of Public Health.

23 "Farmers' market" means a common facility or area where the
24 primary purpose is for farmers to gather to sell a variety of
25 fresh fruits and vegetables and other locally produced farm and
26 food products directly to consumers.

1 "Task Force" means the Farmers' Market Task Force.

2 (c) In order to facilitate the orderly and uniform
3 statewide implementation and affordability of the standards
4 established in the Department ~~of Public Health's~~
5 administrative rules for this Section, the Farmers' Market Task
6 Force shall be formed by the Director to assist the Department
7 in implementing statewide administrative regulations for
8 farmers' markets.

9 (d) This Section does not intend and shall not be construed
10 to limit the power of counties, municipalities, and other local
11 government units to regulate farmers' markets for the
12 protection of the public health, safety, morals, and welfare,
13 including, but not limited to, licensing requirements and time,
14 place, and manner restrictions, except as specified in this
15 Act. This Section provides for a statewide scheme for the
16 orderly and consistent interpretation of the Department's
17 ~~Department of Public Health~~ administrative rules pertaining to
18 the safety of food and food products sold at farmers' markets.

19 (e) The ~~Farmers' Market~~ Task Force shall consist of at
20 least 24 members appointed within 60 days after August 16, 2011
21 (the effective date of this Section). Task Force members shall
22 consist of:

23 (1) one person appointed by the President of the
24 Senate;

25 (2) one person appointed by the Minority Leader of the
26 Senate;

1 (3) one person appointed by the Speaker of the House of
2 Representatives;

3 (4) one person appointed by the Minority Leader of the
4 House of Representatives;

5 (5) the Director of Public Health or his or her
6 designee;

7 (6) the Director of Agriculture or his or her designee;

8 (7) a representative of a general agricultural
9 production association appointed by the Department of
10 Agriculture;

11 (8) three representatives of local county public
12 health departments appointed by the Director and selected
13 from 3 different counties representing each of the
14 northern, central, and southern portions of this State;

15 (9) four members of the general public who are engaged
16 in local farmers' markets appointed by the Director of
17 Agriculture;

18 (10) a representative of an association representing
19 public health administrators appointed by the Director;

20 (11) a representative of an organization of public
21 health departments that serve the City of Chicago and the
22 counties of Cook, DuPage, Kane, Kendall, Lake, McHenry,
23 Will, and Winnebago appointed by the Director;

24 (12) a representative of a general public health
25 association appointed by the Director;

26 (13) the Director of Commerce and Economic Opportunity

1 or his or her designee;

2 (14) the Lieutenant Governor or his or her designee;

3 and

4 (15) five farmers who sell their farm products at
5 farmers' markets appointed by the Lieutenant Governor or
6 his or her designee.

7 Task Force members' terms shall be for a period of 2 years,
8 with ongoing appointments made according to the provisions of
9 this Section.

10 (f) The Task Force shall be convened by the Director or his
11 or her designee. Members shall elect a Task Force Chair and
12 Co-Chair.

13 (g) Meetings may be held via conference call, in person, or
14 both. Three members of the Task Force may call a meeting as
15 long as a 5-working-day notification is sent via mail, e-mail,
16 or telephone call to each member of the Task Force.

17 (h) Members of the Task Force shall serve without
18 compensation.

19 (i) The Task Force shall undertake a comprehensive and
20 thorough review of the current Statutes and administrative
21 rules that define which products and practices are permitted
22 and which products and practices are not permitted at farmers'
23 markets and to assist the Department in developing statewide
24 administrative regulations for farmers' markets.

25 (j) The Task Force shall advise the Department regarding
26 the content of any administrative rules adopted under this

1 Section and Sections 3.4, 3.5, and 4 of this Act prior to
2 adoption of the rules. Any administrative rules, except
3 emergency rules adopted pursuant to Section 5-45 of the
4 Illinois Administrative Procedure Act, adopted under this
5 Section without obtaining the advice of the Task Force are null
6 and void. If the Department fails to follow the advice of the
7 Task Force, the Department shall, prior to adopting the rules,
8 transmit a written explanation to the Task Force. If the Task
9 Force, having been asked for its advice, fails to advise the
10 Department within 90 days after receiving the rules for review,
11 the rules shall be considered to have been approved by the Task
12 Force.

13 (k) The Department ~~of Public Health~~ shall provide staffing
14 support to the Task Force and shall help to prepare, print, and
15 distribute all reports deemed necessary by the Task Force.

16 (l) The Task Force may request assistance from any entity
17 necessary or useful for the performance of its duties. The Task
18 Force shall issue a report annually to the Secretary of the
19 Senate and the Clerk of the House.

20 (m) The following provisions shall apply concerning
21 statewide farmers' market food safety guidelines:

22 (1) The Director, in accordance with this Section,
23 shall adopt administrative rules (as provided by the
24 Illinois Administrative Procedure Act) for foods found at
25 farmers' markets.

26 (2) The rules and regulations described in this Section

1 shall be consistently enforced by local health authorities
2 throughout the State.

3 (2.5) Notwithstanding any other provision of law
4 except as provided in this Section, local public health
5 departments and all other units of local government are
6 prohibited from creating sanitation guidelines, rules, or
7 regulations for farmers' markets that are more stringent
8 than those farmers' market sanitation regulations
9 contained in the administrative rules adopted by the
10 Department for the purposes of implementing this Section
11 and Sections 3.4, 3.5, and 4 of this Act. Except as
12 provided for in Sections 3.4 and 4 of this Act, this
13 Section does not intend and shall not be construed to limit
14 the power of local health departments and other government
15 units from requiring licensing and permits for the sale of
16 commercial food products, processed food products,
17 prepared foods, and potentially hazardous foods at
18 farmers' markets or conducting related inspections and
19 enforcement activities, so long as those permits and
20 licenses do not include unreasonable fees or sanitation
21 provisions and rules that are more stringent than those
22 laid out in the administrative rules adopted by the
23 Department for the purposes of implementing this Section
24 and Sections 3.4, 3.5, and 4 of this Act.

25 (3) In the case of alleged non-compliance with the
26 provisions described in this Section, local health

1 departments shall issue written notices to vendors and
2 market managers of any noncompliance issues.

3 (4) Produce and food products coming within the scope
4 of the provisions of this Section shall include, but not be
5 limited to, raw agricultural products, including fresh
6 fruits and vegetables; popcorn, grains, seeds, beans, and
7 nuts that are whole, unprocessed, unpackaged, and
8 unsprouted; fresh herb springs and dried herbs in bunches;
9 baked goods sold at farmers' markets; cut fruits and
10 vegetables; milk and cheese products; ice cream; syrups;
11 wild and cultivated mushrooms; apple cider and other fruit
12 and vegetable juices; herb vinegar; garlic-in-oil;
13 flavored oils; pickles, relishes, salsas, and other canned
14 or jarred items; shell eggs; meat and poultry; fish;
15 ready-to-eat foods; commercially produced prepackaged food
16 products; and any additional items specified in the
17 administrative rules adopted by the Department to
18 implement Section 3.3 of this Act.

19 (n) Local health department regulatory guidelines may be
20 applied to foods not often found at farmers' markets, all other
21 food products not regulated by the Department of Agriculture
22 and the Department of Public Health, as well as live animals to
23 be sold at farmers' markets.

24 (o) The Task Force shall issue annual reports to the
25 Secretary of the Senate and the Clerk of the House with
26 recommendations for the development of administrative rules as

1 specified. The first report shall be issued no later than
2 December 31, 2012.

3 (p) The Department of Public Health and the Department of
4 Agriculture, in conjunction with the Task Force, shall adopt
5 administrative rules necessary to implement, interpret, and
6 make specific the provisions of this Section, including, but
7 not limited to, rules concerning labels, sanitation, and food
8 product safety according to the realms of their jurisdiction in
9 accordance with subsection (j) of this Section.

10 (q) The Department and the Task Force shall work together
11 to create a food sampling training and license program as
12 specified in Section 3.4 of this Act.

13 (r) In addition to any rules adopted pursuant to subsection
14 (p) of this Section, the following provisions shall be applied
15 uniformly throughout the State, including to home rule units,
16 except as otherwise provided in this Act:

17 (1) Farmers market vendors shall provide effective
18 means to maintain potentially hazardous food, as defined in
19 Section 4 of this Act, at 41 degrees Fahrenheit or below.
20 As an alternative to mechanical refrigeration, an
21 effectively insulated, hard-sided, cleanable container
22 with sufficient ice or other cooling means that is intended
23 for the storage of potentially hazardous food shall be
24 used. Local health departments shall not limit vendors'
25 choice of refrigeration or cooling equipment and shall not
26 charge a fee for use of such equipment. Local health

1 departments shall not be precluded from requiring an
2 effective alternative form of cooling if a vendor is unable
3 to maintain food at the appropriate temperature.

4 (2) Handwashing stations may be shared by farmers'
5 market vendors if handwashing stations are accessible to
6 vendors.

7 (Source: P.A. 98-660, eff. 6-23-14; 99-9, eff. 7-10-15; 99-191,
8 eff. 1-1-16; 99-642, eff. 7-28-16.)