



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 1469

2 AMENDMENT NO. _____. Amend Senate Bill 1469 by replacing
3 everything after the enacting clause with the following:

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

1 the full retail value of their products. They have become
2 important community institutions and have figured in the
3 revitalization of downtown districts and rural
4 communities.

5 (3) Since 1999, the number of farmers' markets has
6 tripled and new ones are being established every year.
7 There is a lack of consistent regulation from one county to
8 the next, resulting in confusion and discrepancies between
9 counties regarding how products may be sold.

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

15 (5) While this bulletin was revised in 2010, there
16 continues to be inconsistencies, confusion, and lack of
17 awareness by consumers, farmers, markets, and local health
18 authorities of required guidelines affecting farmers'
19 markets from county to county.

20 (6) Recognizing that farmers' markets serve as small
21 business incubators and that farmers' profit margins
22 frequently are narrow, even in direct-to-consumer retail,
23 protecting farmers from costs of regulation that are
24 disproportionate to their profits will help ensure the
25 continued viability of these local farms and small
26 businesses.

1 (b) For the purposes of this Section:

2 "Department" means the Department of Public Health.

3 "Director" means the Director of Public Health.

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

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

9 (c) In order to facilitate the orderly and uniform
10 statewide implementation and affordability of the standards
11 established in the Department ~~of Public Health's~~
12 administrative rules for this Section, the Farmers' Market Task
13 Force shall be formed by the Director to assist the Department
14 in implementing statewide administrative regulations for
15 farmers' markets.

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

26 (e) The ~~Farmers' Market~~ Task Force shall consist of at

1 least 24 members appointed within 60 days after August 16, 2011
2 (the effective date of this Section). Task Force members shall
3 consist of:

4 (1) one person appointed by the President of the
5 Senate;

6 (2) one person appointed by the Minority Leader of the
7 Senate;

8 (3) one person appointed by the Speaker of the House of
9 Representatives;

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

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

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

15 (7) a representative of a general agricultural
16 production association appointed by the Department of
17 Agriculture;

18 (8) three representatives of local county public
19 health departments appointed by the Director and selected
20 from 3 different counties representing each of the
21 northern, central, and southern portions of this State;

22 (9) four members of the general public who are engaged
23 in local farmers' markets appointed by the Director of
24 Agriculture;

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

1 (11) a representative of an organization of public
2 health departments that serve the City of Chicago and the
3 counties of Cook, DuPage, Kane, Kendall, Lake, McHenry,
4 Will, and Winnebago appointed by the Director;

5 (12) a representative of a general public health
6 association appointed by the Director;

7 (13) the Director of Commerce and Economic Opportunity
8 or his or her designee;

9 (14) the Lieutenant Governor or his or her designee;
10 and

11 (15) five farmers who sell their farm products at
12 farmers' markets appointed by the Lieutenant Governor or
13 his or her designee.

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

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

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

24 (h) Members of the Task Force shall serve without
25 compensation.

26 (i) The Task Force shall undertake a comprehensive and

1 thorough review of the current Statutes and administrative
2 rules that define which products and practices are permitted
3 and which products and practices are not permitted at farmers'
4 markets and to assist the Department in developing statewide
5 administrative regulations for farmers' markets.

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

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

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

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

3 (1) The Director, in accordance with this Section,
4 shall adopt administrative rules (as provided by the
5 Illinois Administrative Procedure Act) for foods found at
6 farmers' markets.

7 (2) The rules and regulations described in this Section
8 shall be consistently enforced by local health authorities
9 throughout the State.

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

1 licenses do not include unreasonable fees or sanitation
2 provisions and rules that are more stringent than those
3 laid out in the administrative rules adopted by the
4 Department for the purposes of implementing this Section
5 and Sections 3.4, 3.5, and 4 of this Act.

6 (3) In the case of alleged non-compliance with the
7 provisions described in this Section, local health
8 departments shall issue written notices to vendors and
9 market managers of any noncompliance issues.

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

26 (n) Local health department regulatory guidelines may be

1 applied to foods not often found at farmers' markets, all other
2 food products not regulated by the Department of Agriculture
3 and the Department of Public Health, as well as live animals to
4 be sold at farmers' markets.

5 (o) The Task Force shall issue annual reports to the
6 Secretary of the Senate and the Clerk of the House with
7 recommendations for the development of administrative rules as
8 specified. The first report shall be issued no later than
9 December 31, 2012.

10 (p) The Department of Public Health and the Department of
11 Agriculture, in conjunction with the Task Force, shall adopt
12 administrative rules necessary to implement, interpret, and
13 make specific the provisions of this Section, including, but
14 not limited to, rules concerning labels, sanitation, and food
15 product safety according to the realms of their jurisdiction in
16 accordance with subsection (j) of this Section.

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

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

24 (1) Farmers market vendors shall provide effective
25 means to maintain potentially hazardous food, as defined in
26 Section 4 of this Act, at 41 degrees Fahrenheit or below.

1 As an alternative to mechanical refrigeration, an
2 effectively insulated, hard-sided, cleanable container
3 with sufficient ice or other cooling means that is intended
4 for the storage of potentially hazardous food shall be
5 used. Local health departments shall not limit vendors'
6 choice of refrigeration or cooling equipment and shall not
7 charge a fee for use of such equipment. Local health
8 departments shall not be precluded from requiring an
9 effective alternative form of cooling if a vendor is unable
10 to maintain food at the appropriate temperature.

11 (2) Handwashing stations may be shared by farmers'
12 market vendors if handwashing stations are accessible to
13 vendors.

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