



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5025

Introduced 1/27/2022, by Rep. Thomas M. Bennett

SYNOPSIS AS INTRODUCED:

410 ILCS 625/3.3

Amends the Food Handling Regulation Enforcement Act. In provisions regarding farmers' markets, removes language regarding administrative rules. Provides that a farmer who engages in the retail sale of potentially hazardous foods prepackaged in a licensed or permitted processing facility may be required to obtain a Farmers' Market Retail Permit from each unit of local government in which a sale takes place. Contains specified requirements that may apply to the permit. Provides that a Farmers' Market Retail Permit shall be valid for one year and that the fee for obtaining a Farmers' Market Retail Permit shall not exceed \$50. Exempts farmers who sell eggs directly to a customer at a farmers' market from regulation of the sale by the farmer's local health department if the farmer has an Egg License issued by the Department of Agriculture. Removes language listing produce and food products coming within the scope of the provisions. Makes other changes.

LRB102 25266 CPF 34539 b

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. Farms and farmers' ~~Farmers'~~ markets; Farmers'
8 Market Retail Permits.

9 (a) The General Assembly finds as follows:

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

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

22 (3) Since 1999, the number of farmers' markets has
23 tripled and new ones are being established every year.

1 There is a lack of consistent regulation from one county
2 to the next, resulting in confusion and discrepancies
3 between counties regarding how products may be sold. There
4 continue to be inconsistencies, confusion, and lack of
5 awareness by consumers, farmers, markets, and local health
6 authorities of required guidelines affecting farmers'
7 markets from county to county.

8 (4) (Blank).

9 (5) (Blank).

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

17 (b) For the purposes of this Section:

18 "Department" means the Department of Public Health.

19 "Director" means the Director of Public Health.

20 "Farmer" means an individual who is a resident of Illinois
21 and owns or leases land in Illinois that is used as a farm, as
22 that term is defined in Section 1-60 of the Property Tax Code,
23 or that individual's employee.

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

1 and food products directly to consumers.

2 "Local health department" means a State-certified health
3 department of a unit of local government.

4 (c) (Blank).

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

15 (e) (Blank).

16 (f) (Blank).

17 (g) (Blank).

18 (h) (Blank).

19 (i) (Blank).

20 (j) (Blank).

21 (k) (Blank).

22 (l) (Blank).

23 (m) The following provisions shall apply concerning
24 statewide retail sale of farm products at farmers' markets
25 ~~farmers' market food safety guidelines:~~

26 (1) (Blank). ~~The Director, in accordance with this~~

1 ~~Section, shall adopt administrative rules (as provided by~~
2 ~~the Illinois Administrative Procedure Act) for foods found~~
3 ~~at farmers' markets.~~

4 (2) The rules and regulations described in this
5 Section shall be consistently enforced by local health
6 authorities throughout the State.

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

1 ~~Department for the purposes of implementing this Section~~
2 ~~and Sections 3.4, 3.5, and 4 of this Act.~~

3 (2.10) A farmer who engages in the retail sale of
4 potentially hazardous foods prepackaged in a licensed or
5 permitted processing facility, such as meat, poultry, or
6 dairy, may be required to obtain a Farmers' Market Retail
7 Permit from each unit of local government in which a sale
8 takes place. As part of the permitting process, a local
9 health department may require the following:

10 (A) The address of the farm from which the
11 potentially hazardous foods came and the contact
12 information of the farm's owner.

13 (B) A list of products intended for sale.

14 (C) A thermometer for each refrigeration unit,
15 including, but not limited to, a refrigerator, fridge,
16 freezer, or cooler, that is accurate to plus or minus 3
17 degrees Fahrenheit.

18 (D) All equipment and utensils are maintained in
19 good condition, meaning that there are no chips,
20 pitting, or other similar wear.

21 (E) Effective means to maintain cold food
22 temperatures below 41 degrees Fahrenheit in accordance
23 with paragraph (1) of subsection (r).

24 (F) For meat, dairy, or poultry products that do
25 not require refrigeration, a product hazard analysis
26 and critical control point (HACCP) or food safety plan

1 from a State-licensed processing facility as evidence
2 of product safety at specific temperatures for the
3 specified duration that the product is not
4 refrigerated.

5 (G) The name and contact information of the
6 licensed or permitted facility at which a product was
7 processed.

8 (H) A product may not be further processed beyond
9 the state received from the licensed or permitted
10 facility at which the product was processed.

11 (I) If selling meat, poultry, or dairy products
12 that are not the farmer's own, proof of additional
13 licensing by the State, such as a meat broker license
14 issued by the Department of Agriculture.

15 (2.15) A Farmers' Market Retail Permit shall be valid
16 for one year. The fee for obtaining a Farmers' Market
17 Retail Permit shall not exceed \$50. A local health
18 department may inspect a farmer who has been issued a
19 Farmers' Market Retail Permit while he or she is vending
20 at a farmers' market or semi-permanent event to ensure
21 compliance with this Section. A local health department
22 may elect not to require a Farmers' Market Retail Permit.

23 (2.20) A farmer who sells eggs directly to a customer
24 at a farmers' market is exempt from regulation of the sale
25 by the farmer's local health department if the farmer has
26 an Egg License issued by the Department of Agriculture.

1 (3) In the case of alleged noncompliance with the
2 provisions described in this Section, local health
3 departments shall issue written notices to vendors and
4 market managers of any noncompliance issues. Citations may
5 be issued to farmers who do not have or display their
6 Farmers' Market Retail Permits. Repeat violations may
7 result in fines or Farmers' Market Retail Permit
8 suspension by a local health department.

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

25 (n) Local health department regulatory guidelines may be
26 applied to foods not often found at farmers' markets, all

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

4 (o) (Blank).

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

11 (q) The Department shall create a food sampling training
12 and license program as specified in Section 3.4 of this Act.

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

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

1 health departments shall not be precluded from requiring
2 an effective alternative form of cooling if a vendor is
3 unable 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. 100-488, eff. 6-1-18; 100-805, eff. 1-1-19;
8 101-81, eff. 7-12-19.)