



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/6/2004, by Susan Garrett

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.625 new

Creates the Safe Bottled Water Act and amends the State Finance Act. Requires that water-bottling plant and private water source operators obtain a license from the Department of Public Health, and imposes a license fee of \$150. Imposes an additional fee of \$50 for late submission of applications for licensure. Imposes like fees for the registration of out-of-state water-bottling plants. Prescribes minimum standards for various activities in connection with bottled water or vended water. Preempts the exercise of home rule powers in connection with the licensing of activities relating to bottled water. Authorizes the Department to conduct inspections and undertake other activities in connection with administering the Act, and makes it a Class A misdemeanor to interfere with a representative of the Department who is conducting an inspection or other authorized activity. Creates the Safe Bottled Water Fund, to consist of moneys paid to the Department of Public Health under the Safe Bottled Water Act and to be used by the Department for administering the Act. Effective January 1, 2005.

LRB093 15774 DRJ 47248 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT in relation to public health.

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

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.

25 "Vended water" means any water that is dispensed by a
26 water-vending machine or retail water facility, or water from a
27 private water source, and that is dispensed by a water-vending
28 machine, retail water facility, water hauler, or any other
29 person or facility for drinking, culinary, or other purposes
30 involving a likelihood of the water being ingested by humans.

31 "Vended water" does not include water from a public water
32 system that has not undergone additional treatment. Water sold

1 without further treatment is not "vended water".

2 "Water-bottling plant" means any facility in which bottled
3 water is produced.

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

9 Section 10. Licenses required.

10 (a) No person may operate a water-bottling plant or a
11 private water source in this State, except pursuant to a
12 license issued by the Department. Bottled water must be
13 processed in conformance with 21 CFR Part 129 and must conform
14 to 21 CFR Part 165. If a person has a valid water-bottling
15 plant license issued by the Department, additional license fees
16 for a private water source operator based and operating at the
17 same address shall not be required.

18 (b) It is unlawful for any person to bottle, collect,
19 treat, or hold bottled water, or operate a private water
20 source, without a license as required by this Act. Any bottled
21 water dispensed by a private water source that is not licensed
22 in compliance with this Act is misbranded and may be embargoed.

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

28 (d) The licensing of activities relating to bottled water
29 as provided in this Section is an exclusive power and function
30 of the State. A home rule unit may not license any activities
31 relating to bottled water that are licensed under this Section.
32 This subsection is a denial and limitation of home rule powers
33 and functions under subsection (h) of Section 6 of Article VII
34 of the Illinois Constitution.

1 Section 15. Inspections and related activities.

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

5 (1) Enter a inspect a licensed facility or any place
6 where bottled water or vended water records are stored,
7 kept, or maintained.

8 (2) Inspect and copy any records, reports, test
9 results, or other information required to implement this
10 Act.

11 (3) Obtain samples of the water supply and finished
12 product.

13 (b) The Department shall inspect every water-bottling
14 plant and private water source at least once each year. The
15 Department shall provide an opportunity for a representative of
16 the water-bottling plant, water hauler, private water source
17 operator, or bottled water distributor to accompany the
18 Department's representative during the inspection.

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

23 Section 20. Water intended for bottling; storage,
24 transportation, and processing.

25 (a) Water intended for bottling shall not be stored,
26 transported, processed, or bottled through equipment or lines
27 used for any non-food product.

28 (b) Water intended for bottling shall not be stored,
29 transported, processed, or bottled through equipment or lines
30 used for any dairy product or non-beverage food, except that
31 filling equipment may be used for dairy products and
32 non-beverage foods in accordance with the following
33 requirements:

34 (1) When filling equipment designed for cleaning in
35 place is utilized for dairy products or non-beverage foods,

1 that equipment must be thoroughly cleaned and sanitized in
2 place in accordance with procedures specified by the
3 manufacturer and in 21 CFR Part 129 prior to being used for
4 bottled water.

5 (2) Fillers not designed for cleaning in place must be
6 completely disassembled for cleaning and sanitizing prior
7 to being used for bottled water.

8 Section 25. License fee. The fee for any license issued
9 under this Act is \$150. The fee must be paid to the Department
10 before a license may be issued. Licenses issued under this Act
11 shall be issued annually. Licenses must be renewed annually on
12 or before January 1 of the year for which they are issued. The
13 Department may impose an additional fee of \$50 on a person who
14 submits an application for a license after the deadline. The
15 Department shall use all fees received under this Act for the
16 purpose of recouping the costs of providing the services
17 required to be provided by the Department under this Act.

18 Section 30. Water-bottling plants located outside
19 Illinois.

20 (a) Every water-bottling plant located outside Illinois
21 that sells or distributes bottled water in Illinois must
22 annually register with the Department. The fee for registration
23 under this Act is \$150. The Department may impose an additional
24 fee of \$50 on an out-of-state water-bottling plant that
25 registers after the deadline set by the Department.

26 (b) Every water-bottling plant located outside Illinois
27 that sells or distributes bottled water in Illinois must
28 annually provide to the Department proof of a satisfactory
29 inspection report and sample results from a duly authorized
30 state or federal bottled water regulatory agency.

31 Section 35. Safe Bottled Water Fund. The Safe Bottled Water
32 Fund is established as a special fund in the State treasury.
33 All moneys received by the Department under this Act shall be

1 deposited into the fund. Moneys in the fund shall be used by
2 the Department, upon appropriation, for the purpose of
3 administering this Act.

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

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

13 (b) For purposes of this Section, "cause" means a violation
14 of any provision of this Act or any regulation adopted pursuant
15 to this Act.

16 Section 45. Potential contamination.

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

25 (b) Within 7 days after notification by the Department, the
26 bottler, distributor, or vendor of bottled water, owner or
27 operator of a water-vending machine, water hauler, retail water
28 facility operator, or private water source operator must
29 conduct an analysis of the water source and submit the results
30 of the analysis to the Department.

31 (c) If evidence of contamination is found, the Department
32 may, by order, require the bottler of bottled water, owner or
33 operator of a water-vending machine, or private water source
34 operator to conduct an analysis of the finished water product

1 for the contaminants of concern in accordance with conditions
2 specified by the Department. The water analysis must be
3 conducted and reported on an annual basis, unless the
4 Department finds that reasonable action requires either more
5 frequent or less frequent analysis.

6 Section 50. Testing laboratories. All testing of bottled
7 water, bottled water sources, water distributed by water
8 haulers, water from retail water facilities, and water from
9 vending machines must be done by competent laboratories
10 approved by the Department or another state's regulatory
11 agency.

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

13 (a) The Department, by its written permission, may allow a
14 person to package water for use in public emergencies without
15 obtaining a water bottling license if the emergency has
16 resulted in the interruption of, or has compromised the quality
17 of, the public drinking water supply. The Department's
18 permission may authorize the suspension of any provision of
19 this Act and related regulations.

20 (b) The Department may at any time change or impose on the
21 permittee any requirements, such as requirements concerning
22 testing, equipment, and documentation, that the Department
23 deems necessary to protect public health, but in doing so, the
24 Department must consider the effect of those requirements in
25 light of the urgency of the situation. The Department may grant
26 or withdraw this permission at any time.

27 (c) Packing, distribution, and use of water under a permit
28 shall be allowed only during the emergency period and shall end
29 upon the restoration of adequate public drinking supplies as
30 determined by the Department. Distribution of the packaged
31 water shall be limited to the area affected. Water so packaged
32 shall be prominently labeled "drinking water", "for emergency
33 use only", and "not for sale", or similar wording approved by
34 the Department.

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

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

8 Section 90. The State Finance Act is amended by adding
9 Section 5.625 as follows:

10 (30 ILCS 105/5.625 new)

11 Sec. 5.625. The Safe Bottled Water Fund.

12 Section 99. This Act takes effect January 1, 2005.