

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

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

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

33 Section 15. Inspections and related activities.

34 (a) In order to carry out the purposes of this Act, any

1 duly authorized representative of the Department may, at any  
2 reasonable hour of the day, do any of the following:

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

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

9 (3) Obtain samples of the water supply and finished  
10 product.

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

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

21 Section 20. Water intended for bottling; storage,  
22 transportation, and processing.

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

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

31 (1) When filling equipment designed for cleaning in  
32 place is utilized for non-beverage foods, that equipment  
33 must be thoroughly cleaned and sanitized in place in  
34 accordance with procedures specified by the manufacturer  
35 and in 21 CFR Part 129 prior to being used for bottled

1 water.

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

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

15 Section 30. Water-bottling plants located outside  
16 Illinois. Every water-bottling plant located outside Illinois  
17 that sells or distributes bottled water in Illinois must  
18 annually register with the Department. The fee for registration  
19 under this Act is \$150. The Department may impose an additional  
20 fee of \$50 on an out-of-state water-bottling plant that  
21 registers after the deadline set by the Department.

22 Section 35. Safe Bottled Water Fund. The Safe Bottled Water  
23 Fund is established as a special fund in the State treasury.  
24 All moneys received by the Department under this Act shall be  
25 deposited into the fund. Moneys in the fund shall be used by  
26 the Department, upon appropriation, for the purpose of  
27 administering this Act.

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

29 (a) The Department may deny any license application or  
30 revoke or suspend any license issued under this Act for cause.  
31 The Department shall inform the applicant or license holder of  
32 the denial, revocation, or suspension in writing, stating with

1 particularity the reasons for the denial, revocation, or  
2 suspension. The Department shall afford the applicant or  
3 license holder an opportunity for a hearing in accordance with  
4 the Illinois Administrative Procedure Act.

5 (b) For purposes of this Section, "cause" means a violation  
6 of any provision of this Act or any regulation adopted pursuant  
7 to this Act.

8 Section 45. Potential contamination.

9 (a) Upon a determination by the Department that a  
10 particular water source is subject to potential contamination,  
11 the Department shall notify the appropriate bottler,  
12 distributor, or vendor of bottled water, owner or operator of a  
13 water-vending machine, water hauler, retail water facility  
14 operator, or private water source operator of the specific  
15 contaminants or class of contaminants that pose a potential  
16 health risk.

17 (b) Within 7 days after notification by the Department, the  
18 bottler, distributor, or vendor of bottled water, owner or  
19 operator of a water-vending machine, water hauler, retail water  
20 facility operator, or private water source operator must  
21 conduct an analysis of the water source and submit the results  
22 of the analysis to the Department.

23 (c) If evidence of contamination is found, the Department  
24 may, by order, require the bottler of bottled water, owner or  
25 operator of a water-vending machine, or private water source  
26 operator to conduct an analysis of the finished water product  
27 for the contaminants of concern in accordance with conditions  
28 specified by the Department. The water analysis must be  
29 conducted and reported on an annual basis, unless the  
30 Department finds that reasonable action requires either more  
31 frequent or less frequent analysis.

32 Section 50. Testing laboratories. All testing of bottled  
33 water, bottled water sources, water distributed by water  
34 haulers, water from retail water facilities, and water from

1 vending machines must be done by competent laboratories  
2 approved by the Department or another state's regulatory  
3 agency.

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

5 (a) The Department, by its written permission, may allow a  
6 person to package water for use in public emergencies without  
7 obtaining a water bottling license if the emergency has  
8 resulted in the interruption of, or has compromised the quality  
9 of, the public drinking water supply. The Department's  
10 permission may authorize the suspension of any provision of  
11 this Act and related regulations.

12 (b) The Department may at any time change or impose on the  
13 permittee any requirements, such as requirements concerning  
14 testing, equipment, and documentation, that the Department  
15 deems necessary to protect public health, but in doing so, the  
16 Department must consider the effect of those requirements in  
17 light of the urgency of the situation. The Department may grant  
18 or withdraw this permission at any time.

19 (c) Packing, distribution, and use of water under a permit  
20 shall be allowed only during the emergency period and shall end  
21 upon the restoration of adequate public drinking supplies as  
22 determined by the Department. Distribution of the packaged  
23 water shall be limited to the area affected. Water so packaged  
24 shall be prominently labeled "drinking water", "for emergency  
25 use only", and "not for sale", or similar wording approved by  
26 the Department.

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

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

1 Section 90. The State Finance Act is amended by adding  
2 Section 5.625 as follows:

3 (30 ILCS 105/5.625 new)

4 Sec. 5.625. The Safe Bottled Water Fund.

5 Section 99. Effective date. This Act takes effect January  
6 1, 2005.