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1 AMENDMENT TO SENATE BILL 3112

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3112 by replacing  
3 everything after the enacting clause with the following:

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.

1 "Vended water" means any water that is dispensed by a  
2 water-vending machine or retail water facility, or water from a  
3 private water source, and that is dispensed by a water-vending  
4 machine, retail water facility, water hauler, or any other  
5 person or facility for drinking, culinary, or other purposes  
6 involving a likelihood of the water being ingested by humans.  
7 "Vended water" does not include water from a public water  
8 system that has not undergone additional treatment. Water sold  
9 without further treatment is not "vended water".

10 "Water-bottling plant" means any facility in which bottled  
11 water is produced.

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

17 Section 10. Licenses required.

18 (a) No person may operate a water-bottling plant or a  
19 private water source in this State, except pursuant to a  
20 license issued by the Department. Bottled water must be  
21 processed in conformance with 21 CFR Part 129 and must conform  
22 to 21 CFR Part 165. If a person has a valid water-bottling  
23 plant license issued by the Department, additional license fees  
24 for a private water source operator based and operating at the  
25 same address shall not be required.

26 (b) It is unlawful for any person to bottle, process, or  
27 treat bottled water, or operate a private water source, without  
28 a license as required by this Act. Any bottled water dispensed  
29 by a private water source that is not licensed in compliance  
30 with this Act is misbranded and may be embargoed.

31 (c) It is unlawful for a water bottler, water distributor,  
32 water-vending machine owner, retail water facility, or private  
33 water source operator to sell or otherwise distribute water

1 that is unsafe for use or that is adulterated or misbranded as  
2 provided in the Illinois Food, Drug and Cosmetic Act.

3 (d) The licensing of activities relating to bottled water  
4 as provided in this Section is an exclusive power and function  
5 of the State. A home rule unit may not license any activities  
6 relating to bottled water that are licensed under this Section.  
7 This subsection is a denial and limitation of home rule powers  
8 and functions under subsection (h) of Section 6 of Article VII  
9 of the Illinois Constitution.

10 Section 15. Inspections and related activities.

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

14 (1) Enter a inspect a licensed facility or any place  
15 where bottled water or vended water records are stored,  
16 kept, or maintained.

17 (2) Inspect and copy any records, reports, test  
18 results, or other information required to implement this  
19 Act.

20 (3) Obtain samples of the water supply and finished  
21 product.

22 (b) The Department shall inspect every water-bottling  
23 plant and private water source at least once each year. The  
24 Department shall provide an opportunity for a representative of  
25 the water-bottling plant or private water source operator to  
26 accompany the Department's representative during the  
27 inspection.

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

32 Section 20. Water intended for bottling; storage,

1 transportation, and processing.

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

5 (b) Water intended for bottling shall not be stored,  
6 transported, processed, or bottled through equipment or lines  
7 used for any dairy product or non-beverage food, except that  
8 filling equipment may be used for dairy products and  
9 non-beverage foods in accordance with the following  
10 requirements:

11 (1) When filling equipment designed for cleaning in  
12 place is utilized for dairy products or non-beverage foods,  
13 that equipment must be thoroughly cleaned and sanitized in  
14 place in accordance with procedures specified by the  
15 manufacturer and in 21 CFR Part 129 prior to being used for  
16 bottled water.

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

20 Section 25. License fee. The fee for any license issued  
21 under this Act is \$150. The fee must be paid to the Department  
22 before a license may be issued. Licenses issued under this Act  
23 shall be issued annually. Licenses must be renewed annually on  
24 or before January 1 of the year for which they are issued. The  
25 Department may impose an additional fee of \$50 on a person who  
26 submits an application for a license after the deadline. The  
27 Department shall use all fees received under this Act for the  
28 purpose of recouping the costs of providing the services  
29 required to be provided by the Department under this Act.

30 Section 30. Water-bottling plants located outside  
31 Illinois. Every water-bottling plant located outside Illinois  
32 that sells or distributes bottled water in Illinois must

1 annually register with the Department. The fee for registration  
2 under this Act is \$150. The Department may impose an additional  
3 fee of \$50 on an out-of-state water-bottling plant that  
4 registers after the deadline set by the Department.

5 Section 35. Safe Bottled Water Fund. The Safe Bottled Water  
6 Fund is established as a special fund in the State treasury.  
7 All moneys received by the Department under this Act shall be  
8 deposited into the fund. Moneys in the fund shall be used by  
9 the Department, upon appropriation, for the purpose of  
10 administering this Act.

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

12 (a) The Department may deny any license application or  
13 revoke or suspend any license issued under this Act for cause.  
14 The Department shall inform the applicant or license holder of  
15 the denial, revocation, or suspension in writing, stating with  
16 particularity the reasons for the denial, revocation, or  
17 suspension. The Department shall afford the applicant or  
18 license holder an opportunity for a hearing in accordance with  
19 the Illinois Administrative Procedure Act.

20 (b) For purposes of this Section, "cause" means a violation  
21 of any provision of this Act or any regulation adopted pursuant  
22 to this Act.

23 Section 45. Potential contamination.

24 (a) Upon a determination by the Department that a  
25 particular water source is subject to potential contamination,  
26 the Department shall notify the appropriate bottler,  
27 distributor, or vendor of bottled water, owner or operator of a  
28 water-vending machine, water hauler, retail water facility  
29 operator, or private water source operator of the specific  
30 contaminants or class of contaminants that pose a potential  
31 health risk.

1           (b) Within 7 days after notification by the Department, the  
2 bottler, distributor, or vendor of bottled water, owner or  
3 operator of a water-vending machine, water hauler, retail water  
4 facility operator, or private water source operator must  
5 conduct an analysis of the water source and submit the results  
6 of the analysis to the Department.

7           (c) If evidence of contamination is found, the Department  
8 may, by order, require the bottler of bottled water, owner or  
9 operator of a water-vending machine, or private water source  
10 operator to conduct an analysis of the finished water product  
11 for the contaminants of concern in accordance with conditions  
12 specified by the Department. The water analysis must be  
13 conducted and reported on an annual basis, unless the  
14 Department finds that reasonable action requires either more  
15 frequent or less frequent analysis.

16           Section 50. Testing laboratories. All testing of bottled  
17 water, bottled water sources, water distributed by water  
18 haulers, water from retail water facilities, and water from  
19 vending machines must be done by competent laboratories  
20 approved by the Department or another state's regulatory  
21 agency.

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

23           (a) The Department, by its written permission, may allow a  
24 person to package water for use in public emergencies without  
25 obtaining a water bottling license if the emergency has  
26 resulted in the interruption of, or has compromised the quality  
27 of, the public drinking water supply. The Department's  
28 permission may authorize the suspension of any provision of  
29 this Act and related regulations.

30           (b) The Department may at any time change or impose on the  
31 permittee any requirements, such as requirements concerning  
32 testing, equipment, and documentation, that the Department

1 deems necessary to protect public health, but in doing so, the  
2 Department must consider the effect of those requirements in  
3 light of the urgency of the situation. The Department may grant  
4 or withdraw this permission at any time.

5 (c) Packing, distribution, and use of water under a permit  
6 shall be allowed only during the emergency period and shall end  
7 upon the restoration of adequate public drinking supplies as  
8 determined by the Department. Distribution of the packaged  
9 water shall be limited to the area affected. Water so packaged  
10 shall be prominently labeled "drinking water", "for emergency  
11 use only", and "not for sale", or similar wording approved by  
12 the Department.

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

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

20 Section 90. The State Finance Act is amended by adding  
21 Section 5.625 as follows:

22 (30 ILCS 105/5.625 new)

23 Sec. 5.625. The Safe Bottled Water Fund.

24 Section 99. This Act takes effect January 1, 2005."