



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1852

Introduced 2/9/2011, by Sen. David Luechtefeld

SYNOPSIS AS INTRODUCED:

410 ILCS 625/3.3 new
410 ILCS 650/11

from Ch. 56 1/2, par. 77

Amends the Food Handling Regulation Enforcement Act. Provides that the Farmers' Market Task Force shall be formed by the Director to assist the Department in enacting statewide administrative regulations for farmers' markets. Provides for the appointment of members of the Task Force and their corresponding duties. Provides provisions concerning the statewide farmers' market food safety guidelines. Makes corresponding changes in the Sanitary Food Preparation Act. Effective immediately.

LRB097 09934 RPM 50098 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning public 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 adding Section 3.3 as follows:

6 (410 ILCS 625/3.3 new)

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
17 the full retail value of their products. They have become
18 important community institutions and have figured in the
19 revitalization of downtown districts and rural
20 communities.

21 (3) Since 1999, the number of farmers' markets has
22 tripled and new ones are being established every year.
23 There is a lack of consistent regulation from one county to

1 the next, resulting in confusion and discrepancies between
2 counties regarding how products may be sold.

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

8 (5) While this bulletin was revised in 2010, there
9 continues to be inconsistencies, confusion, and lack of
10 awareness by consumers, farmers, markets, and local health
11 authorities of required guidelines affecting farmers'
12 markets from county to county.

13 (b) For the purposes of this Section:

14 "Department" means the Department of Public Health.

15 "Director" means the Director of Public Health.

16 "Farmers' market" means a common facility or area where
17 farmers gather to sell a variety of fresh fruits and vegetables
18 and other locally produced farm and food products directly to
19 consumers. Local food artisans may participate at farmers
20 markets.

21 (c) In order to facilitate the orderly and uniform
22 statewide interpretation of the Department of Public Health's
23 Technical Information Bulletin/Food #30, the Farmers' Market
24 Task Force shall be formed by the Director to assist the
25 Department in enacting statewide administrative regulations
26 for farmers' markets.

1 (d) This Act does not intend and shall not be construed to
2 limit the power of counties, municipalities, and other local
3 government units to regulate farmers' markets for the
4 protection of the public health, safety, morals, and welfare,
5 including, but not limited to, licensing requirements and time,
6 place, and manner restrictions. This Act only provides for a
7 statewide scheme for the orderly and consistent interpretation
8 of the Department of Public Health rules pertaining to the
9 safety of food and food products sold at farmers' markets.

10 (e) The Farmers' Market Task Force shall consist of at
11 least 14 members appointed within 60 days after the effective
12 date of this Section. Task Force members shall consist of:

13 (1) one member appointed by the President of the
14 Senate;

15 (2) one member appointed by the Minority Leader of the
16 Senate;

17 (3) one member appointed by the Speaker of the House of
18 Representatives;

19 (4) one member appointed by the Minority Leader of the
20 House of Representatives shall each appoint one member;

21 (5) the Director of Public Health or his or her
22 designee;

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

24 (7) a representative of a general agricultural
25 production association appointed by the Department of
26 Agriculture;

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

5 (9) four members of the general public who are engaged
6 in local farmers' markets appointed by the Director of
7 Agriculture.

8 Members' terms shall be for a period of 2 years, with
9 additional appointments approved by the majority of the Task
10 Force.

11 (f) The Task Force shall be convened by the Director.
12 Members shall vote for the Chair and Co-Chair.

13 (g) Meetings shall be held monthly or more if necessary via
14 conference call or in person or both. Three members of the Task
15 Force may call a meeting as long as there is a 5-working-day
16 notification to all members of the Task Force.

17 (h) The members of the Task Force shall serve without
18 compensation.

19 (i) The Task Force may appoint new members as it sees fit
20 to serve as representatives of local farmers' markets or other
21 concerned parties.

22 (j) The Task Force shall undertake a comprehensive and
23 thorough review of the current implementation of the various
24 Acts that define which products and practices are permitted and
25 which products and practices are not permitted at farmers'
26 markets and to assist the Department in enacting statewide

1 administrative regulations for farmers' markets.

2 (k) The Task Force shall assist the Department in
3 developing administrative regulations, interagency agreements,
4 and programs and procedures regarding the implementation of the
5 various Acts that define which products and practices are
6 permitted and which products and practices are not permitted at
7 farmers' markets.

8 (l) The Department shall provide staffing support to the
9 Task Force and shall administer and prepare all reports deemed
10 necessary in conjunction with the Task Force.

11 (m) The Task Force may request assistance from any entity
12 necessary or useful for the performance of its duties. The Task
13 Force shall report annually to the Secretary of the Senate and
14 the Clerk of the House.

15 (n) The following provisions shall apply concerning
16 statewide farmers' market food safety guidelines:

17 (1) The Director, in accordance with this Section,
18 shall adopt administrative rules and regulatory guidelines
19 (as provided by the Illinois Administrative Procedure Act)
20 for foods often found at farmers' markets.

21 (2) The rules and regulations described in this Act
22 shall be consistently enforced by local health department
23 authorities throughout the State.

24 (3) In the case of alleged non-compliance with the
25 provisions described in this Act, the local health
26 departments shall issue written notices to vendors and

1 market managers of any noncompliance issues.

2 (4) Foods coming within the scope of the provisions of
3 this Act shall include, but not be limited to, raw
4 agricultural products, including fresh fruits and
5 vegetables; popcorn, grains, seeds, beans, and nuts that
6 are whole, unprocessed, un packaged, and unsprouted; fresh
7 herb springs and dried herbs in bunches; baked goods sold
8 at farmers' markets; cut fruits and vegetables; milk and
9 cheese products; ice cream; syrups; wild and cultivated
10 mushrooms; apple cider and other fruit and vegetable
11 juices; herb vinegar; garlic-in-oil; flavored oils;
12 pickles, relishes, salsas, and other canned or jarred
13 items; shell eggs; meat and poultry; fish; and commercially
14 produced prepackaged food products.

15 (o) Local health department regulatory guidelines may be
16 applied to foods not often found at farmers' markets and any
17 other food products not regulated by the Department as well as
18 live animals to be sold at farmers markets.

19 Section 10. The Sanitary Food Preparation Act is amended by
20 changing Section 11 as follows:

21 (410 ILCS 650/11) (from Ch. 56 1/2, par. 77)

22 Sec. 11. Except as hereinafter provided and as provided in
23 Section 3.3 of the Food Handling Regulation Enforcement Act,
24 the Department of Public Health shall enforce this Act, and for

1 that purpose it may at all times enter every such building,
2 room, basement, inclosure or premises occupied or used or
3 suspected of being occupied or used for the production,
4 preparation or manufacture for sale, or the storage, sale,
5 distribution or transportation of such food, to inspect the
6 premises and all utensils, fixtures, furniture and machinery
7 used as aforesaid; and if upon inspection any such food
8 producing or distribution establishment, conveyance, or
9 employer, employee, clerk, driver or other person is found to
10 be violating any of the provisions of this Act, or if the
11 production, preparation, manufacture, packing, storage, sale,
12 distribution or transportation of such food is being conducted
13 in a manner detrimental to the health of the employees and
14 operatives, or to the character or quality of the food therein
15 being produced, manufactured, packed, stored, sold,
16 distributed or conveyed, the officer or inspector making the
17 inspection or examination shall report such conditions and
18 violations to the Department. The Department of Agriculture
19 shall have exclusive jurisdiction for the enforcement of this
20 Act insofar as it relates to establishments defined by Section
21 2.5 of "The Meat and Poultry Inspection Act", approved July 22,
22 1959, as heretofore or hereafter amended. The Department of
23 Agriculture or Department of Public Health, as the case may be,
24 shall thereupon issue a written order to the person, firm or
25 corporation responsible for the violation or condition
26 aforesaid to abate such condition or violation or to make such

1 changes or improvements as may be necessary to abate them,
2 within such reasonable time as may be required. Notice of the
3 order may be served by delivering a copy thereof to the person,
4 firm or corporation, or by sending a copy thereof by registered
5 mail, and the receipt thereof through the post office shall be
6 prima facie evidence that notice of the order has been
7 received. Such person, firm or corporation may appear in person
8 or by attorney before the Department of Agriculture or the
9 Department of Public Health, as the case may be, within the
10 time limited in the order, and shall be given an opportunity to
11 be heard and to show why such order or instructions should not
12 be obeyed. The hearing shall be under such rules and
13 regulations as may be prescribed by the Department of
14 Agriculture or the Department of Public Health, as the case may
15 be. If after such hearing it appears that this Act has not been
16 violated, the order shall be rescinded. If it appears that this
17 Act is being violated, and that the person, firm or corporation
18 notified is responsible therefor, the previous order shall be
19 confirmed or amended, as the facts shall warrant, and shall
20 thereupon be final, but such additional time as is necessary
21 may be granted within which to comply with the final order. If
22 such person, firm or corporation is not present or represented
23 when such final order is made, notice thereof shall be given as
24 above provided. On failure of the party or parties to comply
25 with the first order of the Department of Agriculture or the
26 Department of Public Health, as the case may be, within the

1 time prescribed, when no hearing is demanded, or upon failure
2 to comply with the final order within the time specified, the
3 Department shall certify the facts to the State's Attorney of
4 the county in which such violation occurred, and such State's
5 Attorney shall proceed against the party or parties for the
6 fines and penalties provided by this Act, and also for the
7 abatement of the nuisance: Provided, that the proceedings
8 herein prescribed for the abatement of nuisances as defined in
9 this Act shall not in any manner relieve the violator from
10 prosecution in the first instance for every such violation, nor
11 from the penalties for such violation prescribed by Section 13.
12 (Source: P.A. 81-1509.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.