

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 implementing statewide administrative
26 regulations 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 provides for a
7 statewide scheme for the orderly and consistent interpretation
8 of the Department of Public Health administrative rules
9 pertaining to the safety of food and food products sold at
10 farmers' markets.

11 (e) The Farmers' Market Task Force shall consist of at
12 least 24 members appointed within 60 days after the effective
13 date of this Section. Task Force members shall consist of:

14 (1) one person appointed by the President of the
15 Senate;

16 (2) one person appointed by the Minority Leader of the
17 Senate;

18 (3) one person appointed by the Speaker of the House of
19 Representatives;

20 (4) one person appointed by the Minority Leader of the
21 House of Representatives;

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

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

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

1 Agriculture;

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

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

9 (10) a representative of an association representing
10 public health administrators appointed by the Director;

11 (11) a representative of an organization of public
12 health departments that serve the City of Chicago and the
13 counties of Cook, DuPage, Kane, Kendall, Lake, McHenry,
14 Will, and Winnebago appointed by the Director;

15 (12) a representative of a general public health
16 association appointed by the Director;

17 (13) the Director of Commerce and Economic Opportunity
18 or his or her designee;

19 (14) the Lieutenant Governor or his or her designee;
20 and

21 (15) five farmers who sell their farm products at
22 farmers' markets appointed by the Lieutenant Governor or
23 his or her designee.

24 Task Force members' terms shall be for a period of 2 years,
25 with ongoing appointments made according to the provisions of
26 this Section.

1 (f) The Task Force shall be convened by the Director or his
2 or her designee. Members shall elect a Task Force Chair and
3 Co-Chair.

4 (g) Meetings may be held via conference call, in person, or
5 both. Three members of the Task Force may call a meeting as
6 long as a 5-working-day notification is sent via mail, e-mail,
7 or telephone call to each member of the Task Force.

8 (h) Members of the Task Force shall serve without
9 compensation.

10 (i) The Task Force shall undertake a comprehensive and
11 thorough review of the current Statutes and administrative
12 rules that define which products and practices are permitted
13 and which products and practices are not permitted at farmers'
14 markets and to assist the Department in developing statewide
15 administrative regulations for farmers' markets.

16 (j) The Task Force shall assist the Department of Public
17 Health and the Department of Agriculture in developing
18 administrative regulations and procedures regarding the
19 implementation of the various Acts that define which products
20 and practices are permitted and which products and practices
21 are not permitted at farmers' markets.

22 (k) The Department of Public Health shall provide staffing
23 support to the Task Force and shall help to prepare, print, and
24 distribute all reports deemed necessary by the Task Force.

25 (l) The Task Force may request assistance from any entity
26 necessary or useful for the performance of its duties. The Task

1 Force shall issue a report annually to the Secretary of the
2 Senate and the Clerk of the House.

3 (m) The following provisions shall apply concerning
4 statewide farmers' market food safety guidelines:

5 (1) The Director, in accordance with this Section,
6 shall adopt administrative rules (as provided by the
7 Illinois Administrative Procedure Act) for foods found at
8 farmers' markets.

9 (2) The rules and regulations described in this Act
10 shall be consistently enforced by local health authorities
11 throughout the State.

12 (3) In the case of alleged non-compliance with the
13 provisions described in this Act, local health departments
14 shall issue written notices to vendors and market managers
15 of any noncompliance issues.

16 (4) Produce and food products coming within the scope
17 of the provisions of this Act shall include, but not be
18 limited to, raw agricultural products, including fresh
19 fruits and vegetables; popcorn, grains, seeds, beans, and
20 nuts that are whole, unprocessed, unpackaged, and
21 unsprouted; fresh herb springs and dried herbs in bunches;
22 baked goods sold at farmers' markets; cut fruits and
23 vegetables; milk and cheese products; ice cream; syrups;
24 wild and cultivated mushrooms; apple cider and other fruit
25 and vegetable juices; herb vinegar; garlic-in-oil;
26 flavored oils; pickles, relishes, salsas, and other canned

1 or jarred items; shell eggs; meat and poultry; fish; and
2 commercially produced prepackaged food products.

3 (n) Local health department regulatory guidelines may be
4 applied to foods not often found at farmers' markets, all other
5 food products not regulated by the Department of Agriculture
6 and the Department of Public Health, as well as live animals to
7 be sold at farmers' markets.

8 (o) The Task Force shall issue annual reports to the
9 Secretary of the Senate and the Clerk of the House with
10 recommendations for the development of administrative rules as
11 specified. The first report shall be issued no later than
12 December 31, 2012.

13 (p) The Department of Public Health and the Department of
14 Agriculture, in conjunction with the Task Force, shall adopt
15 administrative rules necessary to implement, interpret, and
16 make specific the provisions of this Act, including, but not
17 limited to, rules concerning labels, sanitation, and food
18 product safety according to the realms of their jurisdiction.

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.