

**SB0049**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB0049**

Introduced 1/15/2015, by Sen. David Koehler

**SYNOPSIS AS INTRODUCED:**

410 ILCS 625/3.3

Amends the Food Handling Regulation Enforcement Act. Provides that the provisions and rules set forth in a Section concerning farmers' markets only apply to that Section (currently, the entire Act). Effective immediately.

LRB099 03645 JLK 23654 b

**A BILL FOR**

1 AN ACT concerning 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 changing Section 3.3 as follows:

6 (410 ILCS 625/3.3)

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 the  
17 primary purpose is for farmers to gather to sell a variety of  
18 fresh fruits and vegetables and other locally produced farm and  
19 food products directly to consumers.

20 (c) In order to facilitate the orderly and uniform  
21 statewide implementation of the standards established in the  
22 Department of Public Health's administrative rules for this  
23 Section Act, the Farmers' Market Task Force shall be formed by  
24 the Director to assist the Department in implementing statewide  
25 administrative regulations for farmers' markets.

26 (d) This Section Act does not intend and shall not be

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

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

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

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

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

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

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;

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

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

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

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

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

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

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

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

26           (f) The Task Force shall be convened by the Director or his

1 or her designee. Members shall elect a Task Force Chair and  
2 Co-Chair.

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

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

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

15 (j) The Task Force shall advise the Department regarding  
16 the content of any administrative rules adopted under this  
17 Section ~~Act~~ prior to adoption of the rules. Any administrative  
18 rules, except emergency rules adopted pursuant to Section 5-45  
19 of the Illinois Administrative Procedure Act, adopted under  
20 this Section without obtaining the advice of the Task Force are  
21 null and void. If the Department fails to follow the advice of  
22 the Task Force, the Department shall, prior to adopting the  
23 rules, transmit a written explanation to the Task Force. If the  
24 Task Force, having been asked for its advice, fails to advise  
25 the Department within 90 days after receiving the rules for  
26 review, the rules shall be considered to have been approved by

1 the Task Force.

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

5 (l) The Task Force may request assistance from any entity  
6 necessary or useful for the performance of its duties. The Task  
7 Force shall issue a report annually to the Secretary of the  
8 Senate and the Clerk of the House.

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

11 (1) The Director, in accordance with this Section,  
12 shall adopt administrative rules (as provided by the  
13 Illinois Administrative Procedure Act) for foods found at  
14 farmers' markets.

15 (2) The rules and regulations described in this Section  
16 ~~Act~~ shall be consistently enforced by local health  
17 authorities throughout the State.

18 (2.5) Notwithstanding any other provision of law  
19 except as provided in this Section ~~Act~~, local public health  
20 departments and all other units of local government are  
21 prohibited from creating sanitation guidelines, rules, or  
22 regulations for farmers' markets that are more stringent  
23 than those farmers' market sanitation regulations  
24 contained in the administrative rules adopted by the  
25 Department for the purposes of implementing Section 3.3 of  
26 this Act. Except as provided for in Section 3.4 of this

1 Act, this Section ~~Act~~ does not intend and shall not be  
2 construed to limit the power of local health departments  
3 and other government units from requiring licensing and  
4 permits for the sale of commercial food products, processed  
5 food products, prepared foods, and potentially hazardous  
6 foods at farmers' markets or conducting related  
7 inspections and enforcement activities, so long as those  
8 permits and licenses do not include unreasonable fees or  
9 sanitation provisions and rules that are more stringent  
10 than those laid out in the administrative rules adopted by  
11 the Department for the purposes of implementing Section 3.3  
12 of this Act.

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

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



1 garlic-in-oil; flavored oils; pickles, relishes, salsas,  
2 and other canned or jarred items; shell eggs; meat and  
3 poultry; fish; ready-to-eat foods; commercially produced  
4 prepackaged food products; and any additional items  
5 specified in the administrative rules adopted by the  
6 Department to implement Section 3.3 of this Act.

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

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

17 (p) The Department of Public Health and the Department of  
18 Agriculture, in conjunction with the Task Force, shall adopt  
19 administrative rules necessary to implement, interpret, and  
20 make specific the provisions of this Section ~~Act~~, including,  
21 but not limited to, rules concerning labels, sanitation, and  
22 food product safety according to the realms of their  
23 jurisdiction in accordance with subsection (j) of this Section.  
24 The Task Force shall submit recommendations for administrative  
25 rules to the Department no later than December 15, 2014.

26 (q) The Department and the Task Force shall work together

1 to create a food sampling training and license program as  
2 specified in Section 3.4 of this Act.

3 (Source: P.A. 97-394, eff. 8-16-11; 98-660, eff. 6-23-14.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.