

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

1 to the next, resulting in confusion and discrepancies  
2 between counties regarding how products may be sold. There  
3 continue to be inconsistencies, confusion, and lack of  
4 awareness by consumers, farmers, markets, and local health  
5 authorities of required guidelines affecting farmers'  
6 markets from county to county.

7 (4) (Blank).

8 (5) (Blank).

9 (6) Recognizing that farmers' markets serve as small  
10 business incubators and that farmers' profit margins  
11 frequently are narrow, even in direct-to-consumer retail,  
12 protecting farmers from costs of regulation that are  
13 disproportionate to their profits will help ensure the  
14 continued viability of these local farms and small  
15 businesses.

16 (b) For the purposes of this Section:

17 "Department" means the Department of Public Health.

18 "Director" means the Director of Public Health.

19 "Farmer" means an individual who is a resident of Illinois  
20 and owns or leases land in Illinois that is used as a farm, as  
21 that term is defined in Section 1-60 of the Property Tax Code,  
22 or that individual's employee.

23 "Farmers' market" means a common facility or area where  
24 the primary purpose is for farmers to gather to sell a variety  
25 of fresh fruits and vegetables and other locally produced farm  
26 and food products directly to consumers.

1       "Licensed or permitted processing facility" means a  
2       facility that has been inspected, approved, and permitted or  
3       licensed by the Department of Agriculture, the Department of  
4       Public Health, or a local health department.

5       "Local health department" means a State-certified health  
6       department of a unit of local government.

7       "Main ingredient" means an agricultural product that is  
8       the defining or distinctive ingredient in a product, though  
9       not necessarily by predominance of weight.

10       (c) (Blank).

11       (d) This Section does not intend and shall not be  
12       construed to limit the power of counties, municipalities, and  
13       other local government units to regulate farmers' markets for  
14       the protection of the public health, safety, morals, and  
15       welfare, including, but not limited to, licensing requirements  
16       and time, place, and manner restrictions, except as specified  
17       in this Act. This Section provides for a statewide scheme for  
18       the orderly and consistent regulation ~~interpretation of the~~  
19       ~~Department's administrative rules pertaining to the safety of~~  
20       food and food products sold at farmers' markets.

21       (e) (Blank).

22       (f) (Blank).

23       (g) (Blank).

24       (h) (Blank).

25       (i) (Blank).

26       (j) (Blank).

1 (k) (Blank).

2 (l) (Blank).

3 (m) The following provisions shall apply concerning  
4 statewide retail sale of farm products at farmers' markets  
5 ~~farmers' market food safety guidelines:~~

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

10 (2) Local health departments may conduct enforcement  
11 actions under and pursuant to this Section. The rules and  
12 regulations described in this Section shall be  
13 consistently enforced by local health authorities  
14 throughout the State.

15 (2.5) Notwithstanding any other provision of law  
16 except as provided in this Section, local public health  
17 departments and all other units of local government are  
18 prohibited from creating ~~sanitation~~ guidelines, rules, or  
19 regulations for farmers' markets that are more stringent  
20 than those farmers' market ~~sanitation~~ regulations  
21 contained in this Section. ~~the administrative rules~~  
22 ~~adopted by the Department for the purposes of implementing~~  
23 ~~this Section and Sections 3.4, 3.5, and 4 of this Act.~~  
24 ~~Except as provided for in Sections 3.4 and 4 of this Act,~~  
25 ~~this Section does not intend and shall not be construed to~~  
26 ~~limit the power of local health departments and other~~

1 ~~government units from requiring licensing and permits for~~  
2 ~~the sale of commercial food products, processed food~~  
3 ~~products, prepared foods, and potentially hazardous foods~~  
4 ~~at farmers' markets or conducting related inspections and~~  
5 ~~enforcement activities, so long as those permits and~~  
6 ~~licenses do not include unreasonable fees or sanitation~~  
7 ~~provisions and rules that are more stringent than those~~  
8 ~~laid out in the administrative rules adopted by the~~  
9 ~~Department for the purposes of implementing this Section~~  
10 ~~and Sections 3.4, 3.5, and 4 of this Act.~~

11 (2.10) A farmer who engages in the sale of any of the  
12 following products shall obtain a Farmers' Market Permit  
13 from each local health department that chooses to require  
14 a Farmers' Market Permit for each unit of local government  
15 in which a sales takes place:

16 (A) Frozen, potentially hazardous foods that are  
17 prepackaged at a licensed or permitted processing  
18 facility but have the main ingredient grown or raised  
19 on the farmer's farm.

20 (B) Meat, poultry, dairy, and eggs raised or grown  
21 on the farm of the farmer selling the food product.

22 Nothing in this paragraph shall alter any obligation  
23 under the Grade A Pasteurized Milk and Milk Products Act.

24 (2.15) As part of the permitting process for a  
25 Farmers' Market Permit, a local health department may  
26 require the applicant to perform the following:

1           (A) Provide the address of the applicant's farm  
2           and his or her contact information.

3           (B) Provide a list of products intended for sale.

4           (C) Provide a thermometer for each refrigeration  
5           unit, including, but not limited to, a refrigerator,  
6           fridge, freezer, or cooler, that is accurate to plus  
7           or minus 3 degrees Fahrenheit.

8           (D) Maintain in good condition all equipment,  
9           utensils, and the like, meaning that there are no  
10           chips, pitting, or other similar wear.

11           (E) Provide effective means to maintain cold food  
12           temperatures below 41 degrees Fahrenheit and frozen  
13           foods below 32 degrees Fahrenheit.

14           (F) For meat, dairy, or poultry products that do  
15           not require refrigeration, provide a product hazard  
16           analysis and critical control point (HACCP) or food  
17           safety plan from a licensed facility as evidence of  
18           product safety at specific temperatures for the  
19           specified duration that they are not refrigerated.

20           (G) The name, address, and contact information of  
21           the licensed or permitted processing facility at which  
22           products were processed.

23           (H) If selling eggs, provide an Illinois Egg  
24           License issued by the Department of Agriculture.

25           (I) At least one annual inspection. Inspections  
26           may occur on site at the farmers market, or a local

1 health department may require once annually that the  
2 farmer applicant go to an alternate location to  
3 conduct the inspection.

4 (2.20) A Farmers' Market Permit shall be valid for one  
5 year. The fee for obtaining a Farmers' Market Permit shall  
6 not exceed the following:

7 (A) \$75 for a limited egg Farmers' Market Permit  
8 covering only the sale of eggs.

9 (B) \$175 for a full Farmers' Market Permit  
10 covering any combination of meat, poultry, dairy,  
11 eggs, and frozen foods grown, raised, or produced on  
12 or in a licensed or permitted processing facility.

13 The fee limits imposed under this paragraph shall be  
14 increased by 10% on January 1, 2026 and on January 1 of  
15 every third year thereafter.

16 (2.25) A local health department shall meet the  
17 following requirements in creating, setting, or amending  
18 the fee required for a Farmers' Market Permit under this  
19 subsection:

20 (A) A local health department shall solicit public  
21 input in determining the initial fee or fees for a  
22 Farmers' Market Permit, and also at any time a fee  
23 increase is proposed by the local health department,  
24 by one or all of the following means:

25 (i) Convene at least one public meeting to  
26 allow verbal and written public input regarding

1           the intent to create, set, or amend a fee. Before  
2           the public meeting, all farmers' market operators  
3           in the local health department's jurisdiction and  
4           all existing Farmers' Market Permit holders that  
5           are permitted in the local health department's  
6           jurisdiction shall be notified using the best  
7           efforts of the local health department.

8           (ii) Provide public notice and solicit written  
9           comments from the public regarding the intent to  
10          create, set, or amend a fee. Before the comment  
11          period, all farmers' market operators in the  
12          jurisdiction and all existing Farmers' Market  
13          Permit holders that are permitted in the local  
14          health department's jurisdiction shall be notified  
15          using the best efforts of the local health  
16          department.

17          (B) A local health department shall consider all  
18          public comments received in creating, setting, or  
19          amending a fee.

20          (C) A local health department has final discretion  
21          to create, set, or amend a fee, subject to the fee  
22          limits under subparagraph (A) of paragraph (2.20).

23          (D) A local health department shall amend a fee no  
24          more than once per year.

25          (E) All comments received under this paragraph  
26          shall be provided to the locally elected or appointed

1 governing body of the location that the local health  
2 department is located at.

3 (F) A local health department is not required to  
4 create a new process to solicit public input regarding  
5 the creation, setting, or amending of fees if it  
6 already has a process in place that meets the minimum  
7 requirements set forth in this paragraph.

8 (2.30) A home rule unit may not regulate Farmers'  
9 Market Permits in a manner inconsistent with the  
10 regulation by the State of Farmers' Market Permits under  
11 this subsection. This paragraph is a limitation under  
12 subsection (i) of Section 6 of Article VII of the Illinois  
13 Constitution on the concurrent exercise by home rule units  
14 of powers and functions exercised by the State.

15 (3) In the case of alleged noncompliance with the  
16 provisions described in this Section, local health  
17 departments shall issue written notices to vendors and  
18 market managers of any noncompliance issues. Citations may  
19 be issued to farmers who do not have or display their  
20 Farmers' Market Permits. Repeat violations may result in  
21 finest or Farmers' Market Permit suspension by a local  
22 health department.

23 (4) (Blank). ~~Produce and food products coming within~~  
24 ~~the scope of the provisions of this Section shall include,~~  
25 ~~but not be limited to, raw agricultural products,~~  
26 ~~including fresh fruits and vegetables; popcorn, grains,~~

1       ~~seeds, beans, and nuts that are whole, unprocessed,~~  
2       ~~unpackaged, and unsprouted; fresh herb sprigs and dried~~  
3       ~~herbs in bunches; baked goods sold at farmers' markets;~~  
4       ~~cut fruits and vegetables; milk and cheese products; ice~~  
5       ~~cream; syrups; wild and cultivated mushrooms; apple cider~~  
6       ~~and other fruit and vegetable juices; herb vinegar;~~  
7       ~~garlic in oil; flavored oils; pickles, relishes, salsas,~~  
8       ~~and other canned or jarred items; shell eggs; meat and~~  
9       ~~poultry; fish; ready to eat foods; commercially produced~~  
10       ~~prepackaged food products; and any additional items~~  
11       ~~specified in the administrative rules adopted by the~~  
12       ~~Department to implement Section 3.3 of this Act.~~

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

18       (o) (Blank).

19       (p) The Department of Public Health and the Department of  
20       Agriculture shall adopt administrative rules necessary to  
21       implement, interpret, and make specific the provisions of this  
22       Section, including, but not limited to, rules concerning  
23       labels, sanitation, and food product safety according to the  
24       realms of their jurisdiction.

25       (q) The Department shall create a food sampling training  
26       and license program as specified in Section 3.4 of this Act.

1           (r) In addition to any rules adopted pursuant to  
2 subsection (p) of this Section, the following provisions shall  
3 be applied uniformly throughout the State, including to home  
4 rule units, except as otherwise provided in this Act:

5           (1) Farmers market vendors shall provide effective  
6 means to maintain potentially hazardous food, as defined  
7 in Section 4 of this Act, at 41 degrees Fahrenheit or  
8 below. As an alternative to mechanical refrigeration, an  
9 effectively insulated, hard-sided, cleanable container  
10 with sufficient ice or other cooling means that is  
11 intended for the storage of potentially hazardous food  
12 shall be used. Local health departments shall not limit  
13 vendors' choice of refrigeration or cooling equipment and  
14 shall not charge a fee for use of such equipment. Local  
15 health departments shall not be precluded from requiring  
16 an effective alternative form of cooling if a vendor is  
17 unable to maintain food at the appropriate temperature.

18           (2) Handwashing stations may be shared by farmers'  
19 market vendors if handwashing stations are accessible to  
20 vendors.

21           (Source: P.A. 100-488, eff. 6-1-18; 100-805, eff. 1-1-19;  
22 101-81, eff. 7-12-19.)