



Sen. David S. Luechtefeld

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1 AMENDMENT TO SENATE BILL 1852

2 AMENDMENT NO. _____. Amend Senate Bill 1852 by replacing
3 everything after the enacting clause with the following:

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

1 the full retail value of their products. They have become
2 important community institutions and have figured in the
3 revitalization of downtown districts and rural
4 communities.

5 (3) Since 1999, the number of farmers' markets has
6 tripled and new ones are being established every year.
7 There is a lack of consistent regulation from one county to
8 the next, resulting in confusion and discrepancies between
9 counties regarding how products may be sold.

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

15 (5) While this bulletin was revised in 2010, there
16 continues to be inconsistencies, confusion, and lack of
17 awareness by consumers, farmers, markets, and local health
18 authorities of required guidelines affecting farmers'
19 markets from county to county.

20 (b) For the purposes of this Section:

21 "Department" means the Department of Public Health.

22 "Director" means the Director of Public Health.

23 "Farmers' market" means a common facility or area where
24 farmers gather to sell a variety of fresh fruits and vegetables
25 and other locally produced farm and food products directly to
26 consumers. Local food artisans may participate at farmers'

1 markets.

2 (c) In order to facilitate the orderly and uniform
3 statewide interpretation of the Department of Public Health's
4 Technical Information Bulletin/Food #30, the Farmers' Market
5 Task Force shall be formed by the Director to assist the
6 Department in implementing statewide administrative
7 regulations for farmers' markets.

8 (d) This Act does not intend and shall not be construed to
9 limit the power of counties, municipalities, and other local
10 government units to regulate farmers' markets for the
11 protection of the public health, safety, morals, and welfare,
12 including, but not limited to, licensing requirements and time,
13 place, and manner restrictions. This Act provides for a
14 statewide scheme for the orderly and consistent interpretation
15 of the Department of Public Health administrative rules
16 pertaining to the safety of food and food products sold at
17 farmers' markets.

18 (e) The Farmers' Market Task Force shall consist of at
19 least 23 members appointed within 60 days after the effective
20 date of this Section. Task Force members shall consist of:

21 (1) one person appointed by the President of the
22 Senate;

23 (2) one person appointed by the Minority Leader of the
24 Senate;

25 (3) one person appointed by the Speaker of the House of
26 Representatives;

1 (4) one person appointed by the Minority Leader of the
2 House of Representatives;

3 (5) the Director of Public Health or his or her
4 designee;

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

6 (7) a representative of a general agricultural
7 production association appointed by the Department of
8 Agriculture;

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

13 (9) four members of the general public who are engaged
14 in local farmers' markets appointed by the Director of
15 Agriculture;

16 (10) a representative of the Illinois Association of
17 Public Health Administrators;

18 (11) a representative from the Northern Illinois
19 Public Health Consortium;

20 (12) a representative of the Illinois Public Health
21 Association;

22 (13) the Director of Commerce and Economic Opportunity
23 or his or her designee; and

24 (14) five local food farmers selected by the Illinois
25 Farmers Market Network.

26 Task Force members' terms shall be for a period of 2 years,

1 with ongoing appointments made according to the provisions of
2 this Section.

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

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

10 (h) Members of the Task Force shall serve without
11 compensation.

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

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

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

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

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

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

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

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

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

1 and vegetable juices; herb vinegar; garlic-in-oil;
2 flavored oils; pickles, relishes, salsas, and other canned
3 or jarred items; shell eggs; meat and poultry; fish; and
4 commercially produced prepackaged food products.

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

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

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

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

23 (410 ILCS 650/11) (from Ch. 56 1/2, par. 77)

24 Sec. 11. Except as hereinafter provided and as provided in

1 Section 3.3 of the Food Handling Regulation Enforcement Act,
2 the Department of Public Health shall enforce this Act, and for
3 that purpose it may at all times enter every such building,
4 room, basement, inclosure or premises occupied or used or
5 suspected of being occupied or used for the production,
6 preparation or manufacture for sale, or the storage, sale,
7 distribution or transportation of such food, to inspect the
8 premises and all utensils, fixtures, furniture and machinery
9 used as aforesaid; and if upon inspection any such food
10 producing or distribution establishment, conveyance, or
11 employer, employee, clerk, driver or other person is found to
12 be violating any of the provisions of this Act, or if the
13 production, preparation, manufacture, packing, storage, sale,
14 distribution or transportation of such food is being conducted
15 in a manner detrimental to the health of the employees and
16 operatives, or to the character or quality of the food therein
17 being produced, manufactured, packed, stored, sold,
18 distributed or conveyed, the officer or inspector making the
19 inspection or examination shall report such conditions and
20 violations to the Department. The Department of Agriculture
21 shall have exclusive jurisdiction for the enforcement of this
22 Act insofar as it relates to establishments defined by Section
23 2.5 of "The Meat and Poultry Inspection Act", approved July 22,
24 1959, as heretofore or hereafter amended. The Department of
25 Agriculture or Department of Public Health, as the case may be,
26 shall thereupon issue a written order to the person, firm or

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

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."