

AN ACT concerning health.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Food Handling Regulation Enforcement Act is amended by changing Section 3.3 as follows:

(410 ILCS 625/3.3)

Sec. 3.3. Farmers' markets.

(a) The General Assembly finds as follows:

(1) Farmers' markets, as defined in subsection (b) of this Section, provide not only a valuable marketplace for farmers and food artisans to sell their products directly to consumers, but also a place for consumers to access fresh fruits, vegetables, and other agricultural products.

(2) Farmers' markets serve as a stimulator for local economies and for thousands of new businesses every year, allowing farmers to sell directly to consumers and capture the full retail value of their products. They have become important community institutions and have figured in the revitalization of downtown districts and rural communities.

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

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

(4) (Blank).

(5) (Blank).

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

(b) For the purposes of this Section:

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

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

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

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

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

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

(c) (Blank).

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

(e) (Blank).

(f) (Blank).

(g) (Blank).

(h) (Blank).

(i) (Blank).

(j) (Blank).

(k) (Blank).

(l) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) (Blank).

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

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

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

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

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

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