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PUBLIC HEALTH
(410 ILCS 625/) Food Handling Regulation Enforcement Act.

(410 ILCS 625/0.01) (from Ch. 56 1/2, par. 330)

Sec. 0.01. Short title. This Act may be cited as the Food Handling Regulation Enforcement Act.

(Source: P.A. 86-1324.)

(410 ILCS 625/1) (from Ch. 56 1/2, par. 331)

Sec. 1. Any business establishment dealing in the sale of food items which does not comply with existing state laws relating to food handling or does not comply with the health and food handling regulations of any local governmental unit having jurisdiction of such establishment may be enjoined from doing business in the following manner: the Department of Public Health of the State of Illinois or local departments of health may seek an injunction in the circuit court for the county in which such establishment is located. Such injunction, if granted, shall prohibit such business establishment from selling food items until it complies with any applicable state laws or regulations of a local governmental agency. However, no injunction may be sought or granted before July 1, 1980, to enforce any rule or regulation requiring a food service establishment to have one or more persons who are certified in food service sanitation.

The local department of health shall file a written report with the Illinois Department of Public Health within 10 days after seeking an injunction against a business establishment dealing in the sale of food items.

(Source: P.A. 80-1295.)

(410 ILCS 625/2) (from Ch. 56 1/2, par. 332)

Sec. 2. Nothing in this Act shall be construed as limiting or changing any other penalties which any such business establishment may incur under any other law or local ordinance or resolution.

(Source: Laws 1963, p. 3471.)

(410 ILCS 625/3) (from Ch. 56 1/2, par. 333)

Sec. 3. Each food service establishment shall be under the operational supervision of a certified food service sanitation manager in accordance with rules promulgated under this Act.

By July 1, 1990, the Director of the Department of Public Health in accordance with this Act, shall promulgate rules for the education, examination, and certification of food service establishment managers and instructors of the food service

sanitation manager certification education programs. Beginning January 1, 2018, any individual who has completed a minimum of 8 hours of Department-approved training for food service sanitation manager certification, inclusive of the examination, and received a passing score on the examination set by the certification exam provider accredited under standards developed and adopted by the Conference for Food Protection or its successor organization, shall be considered to be a certified food service sanitation manager. Beginning January 1, 2018, any individual who has completed a minimum of 8 hours of Department-approved training for food service sanitation manager instructor certification, inclusive of the examination, and received a passing score on the examination set by the certification exam provider accredited under standards developed and adopted by the Conference for Food Protection or its successor organization, shall be considered to be a certified food service sanitation manager instructor. A food service sanitation manager certificate and a food service sanitation manager instructor certificate issued by the exam provider shall be valid for 5 years and shall not be transferable from the individual to whom it was issued.

For purposes of food service sanitation manager certification, the Department shall accept only training approved by the Department and certification exams accredited under standards developed and adopted by the Conference for Food Protection or its successor.

(Source: P.A. 99-62, eff. 7-16-15; 100-194, eff. 1-1-18.)

(410 ILCS 625/3.05)

Sec. 3.05. Non-restaurant food handler training.

(a) All food handlers not employed by a restaurant as defined in Section 3.06 of this Act, other than someone holding a food service sanitation manager certificate, must receive or obtain training in basic safe food handling principles as outlined in subsection (b) of this Section within 30 days after employment. There is no limit to how many times an employee may take the training. Training is not transferable between individuals or employers. Proof that a food handler has been trained must be available upon reasonable request by a State or local health department inspector and may be in an electronic format.

(b) Food handler training must cover and assess knowledge of the following topics:

(1) The relationship between time and temperature with respect to foodborne illness, including the relationship between time and temperature and microorganisms during the various food handling preparation and serving states, and the type, calibration, and use of thermometers in monitoring food temperatures.

(2) The relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and the food handler's health to foodborne illness, and the recognition of how policies, procedures, and management contribute to improved food safety practices.

(3) Methods of preventing food contamination in all stages of food handling, including terms associated with contamination and potential hazards prior to, during, and after delivery.

(4) Procedures for cleaning and sanitizing equipment and utensils.

(5) Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance.

(c) Training modules must be approved by the Department. Any and all documents, materials, or information related to a restaurant or business food handler training module submitted to the Department is confidential and shall not be open to public inspection or dissemination and is exempt from disclosure under Section 7 of the Freedom of Information Act. Any modules complying with subsection (b) of this Section and not approved within 180 days after the Department's receipt of the business application shall automatically be considered approved. If a training module has been approved in another state, then it shall automatically be considered approved in Illinois so long as the business provides proof that the training has been approved in another state. Training may be conducted by any means available, including, but not limited to, on-line, computer, classroom, live trainers, remote trainers, and certified food service sanitation managers. Nothing in this subsection (c) shall be construed to require a proctor. There must be at least one commercially available, approved food handler training module at a cost of no more than \$15 per employee; if an approved food handler training module is not available at that cost, then the provisions of this Section 3.05 shall not apply.

(d) The regulation of food handler training is considered to be an exclusive function of the State, and local regulation is prohibited. This subsection (d) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(e) The provisions of this Section apply beginning July 1, 2016. From July 1, 2016 through December 31, 2016, enforcement of the provisions of this Section shall be limited to education and notification of requirements to encourage compliance.

(Source: P.A. 98-566, eff. 8-27-13.)

(410 ILCS 625/3.06)

Sec. 3.06. Food handler training; restaurants.

(a) For the purpose of this Section, "restaurant" means any business that is primarily engaged in the sale of ready-to-eat food for immediate consumption. "Primarily engaged" means having sales of ready-to-eat food for immediate consumption comprising at least 51% of the total sales, excluding the sale of liquor.

(b) Unless otherwise provided, all food handlers employed by a restaurant, other than someone holding a food service sanitation manager certificate, must receive or obtain American National Standards Institute-accredited training in basic safe food handling principles within 30 days after employment and every 3 years thereafter. Notwithstanding the provisions of Section 3.05 of this Act, food handlers employed in nursing homes, licensed day care homes and facilities, hospitals, schools, and long-term care facilities must renew their training every 3 years. There is no limit to how many times an employee may take the training. The training indicated in subsections (e) and (f) of this Section is transferable between employers, but not individuals. The training indicated in subsections (c) and (d) of this Section is not transferable between individuals or employers. Proof that a food handler has been trained must be available upon reasonable request by a State or local health department inspector and may be provided electronically.

(c) If a business with an internal training program is

approved in another state prior to the effective date of this amendatory Act of the 98th General Assembly, then the business's training program and assessment shall be automatically approved by the Department upon the business providing proof that the program is approved in said state.

(d) The Department shall approve the training program of any multi-state business or a franchisee, as defined in the Franchise Disclosure Act of 1987, of any multi-state business with a plan that follows the guidelines in subsection (b) of Section 3.05 of this Act and is on file with the Department by August 1, 2017.

(e) If an entity uses an American National Standards Institute food handler training accredited program, that training program shall be automatically approved by the Department.

(f) Certified local health departments in counties serving jurisdictions with a population of 100,000 or less, as reported by the U.S. Census Bureau in the 2010 Census of Population, may have a training program. The training program must meet the requirements of Section 3.05(b) and be approved by the Department. This Section notwithstanding, certified local health departments in the following counties may have a training program:

- (1) a county with a population of 677,560 as reported by the U.S. Census Bureau in the 2010 Census of Population;
- (2) a county with a population of 308,760 as reported by the U.S. Census Bureau in the 2010 Census of Population;
- (3) a county with a population of 515,269 as reported by the U.S. Census Bureau in the 2010 Census of Population;
- (4) a county with a population of 114,736 as reported by the U.S. Census Bureau in the 2010 Census of Population;
- (5) a county with a population of 110,768 as reported by the U.S. Census Bureau in the 2010 Census of Population;
- (6) a county with a population of 135,394 as reported by the U.S. Census Bureau in the 2010 Census of Population.

The certified local health departments in paragraphs (1) through (6) of this subsection (f) must have their training programs on file with the Department no later than 90 days after the effective date of this Act. Any modules that meet the requirements of subsection (b) of Section 3.05 of this Act and are not approved within 180 days after the Department's receipt of the application of the entity seeking to conduct the training shall automatically be considered approved by the Department.

(g) Any and all documents, materials, or information related to a restaurant or business food handler training module submitted to the Department is confidential and shall not be open to public inspection or dissemination and is exempt from disclosure under Section 7 of the Freedom of Information Act. Training may be conducted by any means available, including, but not limited to, on-line, computer, classroom, live trainers, remote trainers, and certified food service sanitation managers. There must be at least one commercially available, approved food handler training module at a cost of no more than \$15 per employee; if an approved food handler training module is not available at that cost, then the provisions of this Section 3.06 shall not apply.

(h) The regulation of food handler training is considered to be an exclusive function of the State, and local regulation is prohibited. This subsection (h) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(i) The provisions of this Section apply beginning July 1,

2014. From July 1, 2014 through December 31, 2014, enforcement of the provisions of this Section shall be limited to education and notification of requirements to encourage compliance. (Source: P.A. 99-62, eff. 7-16-15; 99-78, eff. 7-20-15; 100-367, eff. 8-25-17.)

(410 ILCS 625/3.1)

Sec. 3.1. Potluck events.

(a) As used in this Section, "potluck event" means an event that meets all of the following conditions:

- (1) People are gathered to share food at the event.
- (2) There is no compensation provided to people for bringing food to the event.
- (3) There is no charge for any food or beverage provided at the event.
- (4) The event is not conducted for commercial purposes.
- (5) It is generally understood by the participants at the event that neither the food nor the facilities have been inspected by the State or a local certified public health department.
- (6) The event is not held on public property.

(b) Notwithstanding any other provision of law, neither the Department of Public Health nor the health department of a unit of local government may regulate the serving of food that is brought to a potluck event sponsored by a group of individuals or a religious, charitable, or nonprofit organization by individuals attending the potluck event for consumption at the potluck event. Individuals who are not members of a group or organization sponsoring a potluck event may attend the potluck event and consume the food at the event. No fee may be charged for admission to a potluck event that is exempt from regulation under this Section, nor may food be sold at a potluck event that is exempt from regulation under this Section. A business establishment dealing in the sale of food items may not sponsor a potluck event. Potluck event food may not be brought into the kitchen of a business establishment dealing in the sale of food items.

(Source: P.A. 93-1039, eff. 6-1-05.)

(410 ILCS 625/3.2)

Sec. 3.2. Food banks.

(a) For purposes of this Section, "food bank" means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities to food pantries, soup kitchens, hunger relief centers, or other feeding programs that, as an integral part of their normal activities, provide meals or food to needy persons.

(b) All food banks that provide food to feeding programs in Illinois shall provide a list of its member food pantries, soup kitchens, hunger relief centers, and other feeding programs to the State-certified local public health department or departments having jurisdiction in its service area. Food banks must provide this list to local public health departments annually and the listing shall include the following information about each food pantry, soup kitchen, hunger relief center, and other feeding program:

- (1) agency name;
- (2) type of feeding program;
- (3) address;
- (4) phone number; and

(5) fax number.

The intent of having food banks provide this information annually to the local public health department is solely for the purpose of ensuring that food recall alerts and other pertinent information will be communicated to food pantries, soup kitchens, hunger relief centers, and other feeding programs in a timely fashion.

(Source: P.A. 95-828, eff. 1-1-09.)

(410 ILCS 625/3.3)

(Text of Section before amendment by P.A. 100-488)

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.

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

(5) While this bulletin was revised in 2010, there continues 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.

(b) For the purposes of this Section:

"Department" means the Department of Public Health.

"Director" means the Director of Public Health.

"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.

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

(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. This Section provides for a statewide scheme for the orderly and consistent interpretation of the Department of Public Health administrative rules pertaining to the safety of food and food products sold at farmers' markets.

(e) The Farmers' Market Task Force shall consist of at least 24 members appointed within 60 days after August 16, 2011 (the effective date of this Section). Task Force members shall consist of:

- (1) one person appointed by the President of the Senate;
 - (2) one person appointed by the Minority Leader of the Senate;
 - (3) one person appointed by the Speaker of the House of Representatives;
 - (4) one person appointed by the Minority Leader of the House of Representatives;
 - (5) the Director of Public Health or his or her designee;
 - (6) the Director of Agriculture or his or her designee;
 - (7) a representative of a general agricultural production association appointed by the Department of Agriculture;
 - (8) three representatives of local county public health departments appointed by the Director and selected from 3 different counties representing each of the northern, central, and southern portions of this State;
 - (9) four members of the general public who are engaged in local farmers' markets appointed by the Director of Agriculture;
 - (10) a representative of an association representing public health administrators appointed by the Director;
 - (11) a representative of an organization of public health departments that serve the City of Chicago and the counties of Cook, DuPage, Kane, Kendall, Lake, McHenry, Will, and Winnebago appointed by the Director;
 - (12) a representative of a general public health association appointed by the Director;
 - (13) the Director of Commerce and Economic Opportunity or his or her designee;
 - (14) the Lieutenant Governor or his or her designee;
- and
- (15) five farmers who sell their farm products at farmers' markets appointed by the Lieutenant Governor or his or her designee.

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

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

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

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

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

(j) The Task Force shall advise the Department regarding the content of any administrative rules adopted under this Section and Sections 3.4, 3.5, and 4 of this Act prior to adoption of

the rules. Any administrative rules, except emergency rules adopted pursuant to Section 5-45 of the Illinois Administrative Procedure Act, adopted under this Section without obtaining the advice of the Task Force are null and void. If the Department fails to follow the advice of the Task Force, the Department shall, prior to adopting the rules, transmit a written explanation to the Task Force. If the Task Force, having been asked for its advice, fails to advise the Department within 90 days after receiving the rules for review, the rules shall be considered to have been approved by the Task Force.

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

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

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

(1) 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) 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 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.

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

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

(p) The Department of Public Health and the Department of Agriculture, in conjunction with the Task Force, 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 in accordance with subsection (j) of this Section.

(q) The Department and the Task Force shall work together to create a food sampling training and license program as specified in Section 3.4 of this Act.

(Source: P.A. 98-660, eff. 6-23-14; 99-9, eff. 7-10-15; 99-191, eff. 1-1-16; 99-642, eff. 7-28-16.)

(Text of Section after amendment by P.A. 100-488)

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.

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

(5) While this bulletin was revised in 2010, there continues 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.

(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.

"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.

"Task Force" means the Farmers' Market Task Force.

(c) In order to facilitate the orderly and uniform statewide implementation and affordability of the standards established in the Department administrative rules for this Section, the Farmers' Market Task Force shall be formed by the Director to assist the Department in implementing statewide administrative regulations for farmers' markets.

(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 interpretation of the Department's administrative rules pertaining to the safety of food and food products sold at farmers' markets.

(e) The Task Force shall consist of at least 24 members appointed within 60 days after August 16, 2011 (the effective date of this Section). Task Force members shall consist of:

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) the Lieutenant Governor or his or her designee;

(15) five farmers who sell their farm products at farmers' markets appointed by the Lieutenant Governor or his or her designee; and

(16) one person appointed by the Mayor of Chicago.

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

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

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

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

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

(j) The Task Force shall advise the Department regarding the content of any administrative rules adopted under this Section and Sections 3.4, 3.5, and 4 of this Act prior to adoption of the rules. Any administrative rules, except emergency rules adopted pursuant to Section 5-45 of the Illinois Administrative Procedure Act, adopted under this Section without obtaining the advice of the Task Force are null and void. If the Department fails to follow the advice of the Task Force, the Department shall, prior to adopting the rules, transmit a written explanation to the Task Force. If the Task Force, having been asked for its advice, fails to advise the Department within 90 days after receiving the rules for review, the rules shall be considered to have been approved by the Task Force.

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

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

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

(1) 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) 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' market markets that are more stringent than those farmers' market sanitation regulations contained 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. 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.

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

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

(p) The Department of Public Health and the Department of Agriculture, in conjunction with the Task Force, 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 in accordance with subsection (j) of this Section.

(q) The Department and the Task Force shall work together to 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. 99-9, eff. 7-10-15; 99-191, eff. 1-1-16; 99-642, eff. 7-28-16; 100-488, eff. 6-1-18.)

(410 ILCS 625/3.4)

Sec. 3.4. Product samples.

(a) For the purpose of this Section, "food product sampling" means food product samples distributed free of charge for promotional or educational purposes only.

(b) Notwithstanding any other provision of law, except as provided in subsection (c) of this Section, a vendor who engages in food product sampling at a farmers' market may do so without obtaining a State or local permit to provide those food product samples, provided the vendor complies with the State and local permit requirements to sell the food product to be sampled and with the food preparation, food handling, food storage, and food sampling requirements specified in the administrative rules adopted by the Department to implement Section 3.3 and Section 3.4 of this Act.

The Department of Public Health is instructed to work with the Farmers' Market Task Force as created in Section 3.3 of this Act to establish a food sampling at farmers' market training and certification program to fulfill this requirement. The Department shall adopt rules for the food sampling training and certification program and product sampling requirements at farmers' markets in accordance with subsection (j) of Section 3.3. The Department may charge a reasonable fee for the training and certification program. The Department may delegate or contract authority to administer the food sampling training to other qualified public and private entities.

(c) Notwithstanding the provisions of subsection (b) of this Section, the Department of Public Health, the Department of Agriculture, a local municipal health department, or a certified local health department may inspect a vendor at a farmers' market to ensure compliance with the provisions in this Section. If an imminent health hazard exists or a vendor's product has been found to be misbranded, adulterated, or not in compliance with the permit exemption for vendors pursuant to this Section, then the regulatory authority may invoke cessation of sales until it deems that the situation has been addressed.

(Source: P.A. 98-660, eff. 6-23-14; 99-78, eff. 7-20-15.)

(410 ILCS 625/3.5)

Sec. 3.5. Product origin.

(a) All vendors or booths selling specialty crops and raw agricultural commodities at a farmers' market in Illinois must post at the point of sale a placard or include on a label or packing slip the physical address of the farm or farms on which those products were grown or produced.

Specialty crops and raw agricultural commodities purchased through wholesale or retail markets may be offered for resale at a farmers' market. If the physical address of the farm or farms

where the products were grown or produced is unknown, then the vendor must post at the point of sale a placard or include on a label or packing slip the physical address and business name, when applicable, where the products were purchased.

(b) Specialty crops and raw agricultural commodities direct marketed at farmers' markets that do not include a placard at the point of sale or on a label or packing slip stating the physical location of the farm on which those products were grown or produced shall be considered misbranded.

(c) Any related federal rules or regulations adopted through the implementation of the federal Food Safety Modernization Act regarding transparency, traceability, and product origin labeling pertaining to specialty crops and raw agricultural commodities shall supersede the provisions of this Section.

(Source: P.A. 98-660, eff. 6-23-14.)

(410 ILCS 625/3.6)

Sec. 3.6. Home kitchen operation.

(a) For the purpose of this Section, "home kitchen operation" means a person who produces or packages non-potentially hazardous baked goods, as allowed by subsection (a-5), in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member. A home kitchen operation does not include a person who produces or packages non-potentially hazardous baked goods for sale by a religious, charitable, or nonprofit organization for fundraising purposes; the production or packaging of non-potentially hazardous baked goods for these purposes is exempt from the requirements of this Act. The following conditions must be met in order to qualify as a home kitchen operation:

(1) Monthly gross sales do not exceed \$1,000.

(2) The food is a non-potentially hazardous baked good, as described in Section 4 of this Act.

(3) A notice is provided to the purchaser that the product was produced in a home kitchen.

(4) The food package is affixed with a label or other written notice is provided to the purchaser that includes:

(i) the common or usual name of the food product;

and

(ii) allergen labeling as specified in federal labeling requirements by the United States Food and Drug Administration.

(5) The food is sold directly to the consumer.

(6) The food is stored in the residence where it is produced or packaged.

(a-5) Baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits.

(b) The Department of Public Health or the health department of a unit of local government may inspect a home kitchen operation in the event of a complaint or disease outbreak.

(c) The requirements of this Section apply only to a home kitchen operation located in a municipality, township, or county where the local governing body having the jurisdiction to enforce this Act or the rules adopted under this Act has adopted an ordinance authorizing home kitchen operations.

(Source: P.A. 99-78, eff. 7-20-15; 99-191, eff. 1-1-16; 100-35, eff. 1-1-18.)

(410 ILCS 625/3.7)

Sec. 3.7. Communal kitchen in private residential leasehold.

(a) As used in this Section, "private residential leasehold" means a private residential structure not open to the public which is leased to more than one person and contains a communal kitchen used by the lessees and guests of the lessees.

(b) Notwithstanding any other provision of law, neither the Department of Public Health nor the health department of a unit of local government may regulate the preparing and serving of food in a private residential leasehold that is prepared by or for the lessees and consumed by the lessees and their guests.

(c) This Section does not apply to regulation of private residential leaseholds in municipalities with a population greater than 1,000,000.

(Source: P.A. 100-330, eff. 1-1-18.)

(410 ILCS 625/3.07)

Sec. 3.07. Allergen awareness training.

(a) As used in this Section:

"Certified food service sanitation manager" means a food service sanitation manager certified under Section 3 of this Act.

"Major food allergen" includes milk, eggs, fish, crustaceans, tree nuts, wheat, peanuts, soybeans, and food ingredients that contain protein derived from these foods.

"Primarily engaged" means having sales of ready-to-eat food for immediate consumption comprising at least 51% of the total sales, excluding the sale of liquor.

"Restaurant" means any business that is primarily engaged in the sale of ready-to-eat food for immediate consumption.

(b) Unless otherwise provided, all certified food service sanitation managers employed by a restaurant must receive or obtain training in basic allergen awareness principles within 30 days after employment and every 3 years thereafter. Training programs must be accredited by the American National Standards Institute or another reputable accreditation agency under the ASTM International E2659-09 (Standard Practice for Certificate Programs). There is no limit to how many times an employee may take the training.

(c) Allergen awareness training must cover and assess knowledge of the following topics:

- (1) the definition of a food allergy;
- (2) the symptoms of an allergic reaction;
- (3) the major food allergens;
- (4) the dangers of allergens and how to prevent cross-contact;
- (5) the proper cleaning methods to prevent allergen contamination;
- (6) how and when to communicate to guests and staff about allergens;
- (7) the special considerations related to allergens from workstations and self-serve areas;
- (8) how to handle special dietary requests;
- (9) dealing with emergencies, including allergic reactions;
- (10) the importance of food labels;
- (11) how to handle food deliveries in relation to allergens;

(12) proper food preparation for guests with food allergies; and

(13) cleaning and personal hygiene considerations to prevent contaminating food with allergens.

(d) If an entity uses an allergen awareness training program accredited by the American National Standards Institute or another reputable accreditation agency under the ASTM International E2659-09 (Standard Practice for Certificate Programs), then that training program meets the requirements of this Section. The training indicated in this subsection (d) is transferable between employers, but not individuals.

(e) If a business with an internal training program follows the guidelines in subsection (c), and is approved in another state prior to the effective date of this amendatory Act of the 100th General Assembly, then the business's training program and assessment meets the requirements of the Section. The training indicated in this subsection (e) is not transferable between individuals or employers.

(f) The training program of any multi-state business with a plan that follows the guidelines of subsection (c) meets the requirements of this Section. The training indicated in this subsection (f) is not transferable between individuals or employers.

(g) This Section does not apply to a multi-state business or a franchisee, as defined in the Franchise Disclosure Act of 1987, that has a food handler training program that follows the guidelines in subsection (d) of Section 3.06 of this Act; an individual that receives food handler training in accordance with the rules adopted under this Act; or a Category II facility or Category III facility as defined under 77 Ill. Adm. Code 750.10.

(h) Any and all documents, materials, or information related to a restaurant or business allergen awareness training module is confidential and shall not be open to public inspection or dissemination and is exempt from disclosure under Section 7 of the Freedom of Information Act. Training may be conducted by any means available, including, but not limited to, online, computer, classroom, live trainers, remote trainers, and food service sanitation managers who have successfully completed an approved allergen training. Nothing in this subsection (h) shall be construed to require a proctor. Proof that a food service sanitation manager has been trained must be available upon reasonable request by a State or local health department inspector and may be provided electronically.

(i) The regulation of allergen awareness training is considered to be an exclusive function of the State, and local regulation is prohibited. This subsection (i) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(j) The provisions of this Section apply beginning January 1, 2018. From January 1, 2018 through July 1, 2018, enforcement of the provisions of this Section shall be limited to education and notification of requirements to encourage compliance.

(Source: P.A. 100-367, eff. 8-25-17.)

(410 ILCS 625/4)

Sec. 4. Cottage food operation.

(a) For the purpose of this Section:

"Cottage food operation" means an operation conducted by a person who produces or packages food or drink, other than foods and drinks listed as prohibited in paragraph (1.5) of subsection

(b) of this Section, in a kitchen located in that person's primary domestic residence or another appropriately designed and equipped residential or commercial-style kitchen on that property for direct sale by the owner, a family member, or employee.

"Department" means the Department of Public Health.

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

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

"Potentially hazardous food" means a food that is potentially hazardous according to the Department's administrative rules. Potentially hazardous food (PHF) in general means a food that requires time and temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(b) Notwithstanding any other provision of law and except as provided in subsections (c), (d), and (e) of this Section, neither the Department nor the Department of Agriculture nor the health department of a unit of local government may regulate the transaction of food or drink by a cottage food operation providing that all of the following conditions are met:

(1) (Blank).

(1.5) A cottage food operation may produce homemade food and drink. However, a cottage food operation, unless properly licensed, certified, and compliant with all requirements to sell a listed food item under the laws and regulations pertinent to that food item, shall not sell or offer to sell the following food items or processed foods containing the following food items, except as indicated:

(A) meat, poultry, fish, seafood, or shellfish;

(B) dairy, except as an ingredient in a non-potentially hazardous baked good or candy, such as caramel;

(C) eggs, except as an ingredient in a non-potentially hazardous baked good or in dry noodles;

(D) pumpkin pies, sweet potato pies, cheesecakes, custard pies, creme pies, and pastries with potentially hazardous fillings or toppings;

(E) garlic in oil;

(F) canned foods, except for fruit jams, fruit jellies, fruit preserves, fruit butters, and acidified vegetables;

(G) sprouts;

(H) cut leafy greens, except for leafy greens that are dehydrated or blanched and frozen;

(I) cut fresh tomato or melon;

(J) dehydrated tomato or melon;

(K) frozen cut melon;

(L) wild-harvested, non-cultivated mushrooms; or

(M) alcoholic beverages.

(2) The food is to be sold at a farmers' market, with the exception that cottage foods that have a locally grown agricultural product as the main ingredient may be sold on the farm where the agricultural product is grown or delivered directly to the consumer.

(3) (Blank).

(4) The food packaging conforms to the labeling

requirements of the Illinois Food, Drug and Cosmetic Act and includes the following information on the label of each of its products:

- (A) the name and address of the cottage food operation;
- (B) the common or usual name of the food product;
- (C) all ingredients of the food product, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names;
- (D) the following phrase: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens.";
- (E) the date the product was processed; and
- (F) allergen labeling as specified in federal labeling requirements.

(5) The name and residence of the person preparing and selling products as a cottage food operation is registered with the health department of a unit of local government where the cottage food operation resides. No fees shall be charged for registration. Registration shall be for a minimum period of one year.

(6) The person preparing or packaging products as a cottage food operation has a Department approved Food Service Sanitation Management Certificate.

(7) At the point of sale a placard is displayed in a prominent location that states the following: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens.".

(c) Notwithstanding the provisions of subsection (b) of this Section, if the Department or the health department of a unit of local government has received a consumer complaint or has reason to believe that an imminent health hazard exists or that a cottage food operation's product has been found to be misbranded, adulterated, or not in compliance with the exception for cottage food operations pursuant to this Section, then it may invoke cessation of sales of cottage food products until it deems that the situation has been addressed to the satisfaction of the Department.

(d) Notwithstanding the provisions of subsection (b) of this Section, a State-certified local public health department may, upon providing a written statement to the Department, regulate the service of food by a cottage food operation. The regulation by a State-certified local public health department may include all of the following requirements:

(1) That the cottage food operation (A) register with the State-certified local public health department, which shall be for a minimum of one year and include a reasonable fee set by the State-certified local public health department that is no greater than \$25 notwithstanding paragraph (5) of subsection (b) of this Section and (B) agree in writing at the time of registration to grant access to the State-certified local public health department to conduct an inspection of the cottage food operation's primary domestic residence in the event of a consumer complaint or foodborne illness outbreak.

(2) That in the event of a consumer complaint or foodborne illness outbreak the State-certified local public health department is allowed to (A) inspect the premises of the cottage food operation in question and (B) set a reasonable fee for that inspection.

(e) The Department may adopt rules as may be necessary to implement the provisions of this Section.

(Source: P.A. 99-191, eff. 1-1-16; 100-35, eff. 1-1-18.)