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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 July 1, 2014, any individual seeking a food service sanitation

manager certificate or a food service sanitation manager instructor certificate must complete a minimum of 8 hours of Department-approved training, inclusive of the examination, and receive a score of at least 75% on the examination. A food service sanitation manager certificate and a food service sanitation manager instructor certificate shall be valid for 5 years, unless revoked by the Department of Public Health, and shall not be transferable from the individual to whom it was issued. Beginning July 1, 2014, recertification for food service sanitation manager certification shall be accomplished by presenting evidence of completion of 8 hours of Department-approved training, inclusive of the examination, and having received a score of at least 75% on the examination.

For purposes of certification and recertification for 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. The Department shall charge a fee of \$35 for each new and renewed food service sanitation manager certificate and \$10 for each replacement certificate. All fees collected under this Section shall be deposited into the Food and Drug Safety Fund.

Any fee received by the Department under this Section that is submitted for the renewal of an expired food service sanitation manager certificate may be returned by the Director after recording the receipt of the fee and the reason for its return.

The Department shall award an Illinois certificate to anyone presenting a valid certificate issued by another state, so long as the holder of the certificate provides proof of having passed an examination accredited under standards developed and adopted by the Conference for Food Protection or its successor. The \$35 issuance fee applies. The reciprocal Illinois certificate shall expire on the same date as the presented certificate. On or before the expiration date, the holder must have met the Illinois recertification requirements in order to be reissued an Illinois certificate. Reciprocity is only for individuals who have moved to or begun working in Illinois in the 6 months prior to applying for reciprocity. Any individual presenting an out-of-state certificate may do so only once.

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

(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 micro-organisms 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 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 May 15, 2013.

(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.

through (6) of this subsection (f) must have their training program 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. 98-566, eff. 8-27-13.)

(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

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 assist the Department of Public Health and the Department of Agriculture in developing administrative regulations and procedures regarding the implementation of the various Acts that define which products and practices are permitted and which products and practices are not permitted at farmers' markets.

(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 Act shall be consistently enforced by local health authorities throughout the State.

(3) In the case of alleged non-compliance with the provisions described in this Act, 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 Act 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; and commercially produced prepackaged food products.

(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 Act, including, but not limited to, rules concerning labels, sanitation, and food product safety according to the realms of their jurisdiction. (Source: P.A. 97-394, eff. 8-16-11.)

(410 ILCS 625/4)

Sec. 4. Cottage food operation.

(a) For the purpose of this Section:

"Cottage food operation" means a person who produces or packages non-potentially hazardous food in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member, stored in the residence where the food is made.

"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.

"Potentially hazardous food" means a food that is potentially hazardous according to the Federal Food and Drug Administration 2009 Food Code (FDA 2009 Food Code) or any subsequent amendments to the FDA 2009 Food Code. 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. In accordance with the FDA 2009 Food Code, potentially hazardous food does not include a food item that because of its pH or Aw value, or interaction of Aw and pH values, is designated as a non-PHF/non-TCS food in Table A or B of the FDA 2009 Food Code's potentially hazardous food definition.

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

(1) The food is not a potentially hazardous baked good, jam, jelly, preserve, fruit butter, dry herb, dry herb blend, or dry tea blend and is intended for end-use only. The following provisions shall apply:

(A) The following jams, jellies and preserves 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. Rhubarb, tomato, and pepper jellies or jams are not allowed. Any other jams, jellies, or preserves not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6.

(B) The following fruit butters are allowed: apple, apricot, grape, peach, plum, quince, and prune. Pumpkin butter, banana butter, and pear butter are not allowed. Fruit butters not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6.

(C) 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. Fruit pies not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6. The following are potentially hazardous and prohibited from production and sale by a cottage food operation: pumpkin pie, sweet potato pie, cheesecake, custard pies, creme pies, and pastries with potentially hazardous fillings or toppings.

(2) The food is to be sold at a farmers' market.

(3) Gross receipts from the sale of food exempted under this Section do not exceed \$25,000 in a calendar year.

(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.

(6) The person preparing and selling products as a cottage food operation has a Department of Public Health 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 of Public Health 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 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 of Public Health, 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 may include a reasonable fee set by the State-certified local public health department 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.

(Source: P.A. 97-393, eff. 1-1-12.)

