

1 AN ACT in relation to public health.

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

4 Section 1. Short title. This Act may be cited as the Safe
5 Bottled Water Act.

6 Section 5. Definitions. In this Act:

7 "Bottled water" means any water that is placed in a sealed
8 container at a water-bottling plant to be used for drinking,
9 culinary, or other purposes involving a likelihood of the water
10 being ingested by humans. "Bottled water" does not include
11 water packaged with the approval of the Department for use in a
12 public emergency.

13 "Department" means the Department of Public Health.

14 "Private water source" means a privately owned source of
15 water in Illinois, other than a public water system or private
16 water system as defined in the Illinois Groundwater Protection
17 Act, that is used for bottled or vended water and meets the
18 requirements of an approved source for bottled water as defined
19 in Section 129.3 of Title 21 of the Code of Federal
20 Regulations.

21 "Retail water facility" means any commercial establishment
22 where vended water is sold, and placed in customers'
23 containers, or placed in containers sold or given to customers
24 who come to the establishment to obtain water.

25 "Vended water" means any water that is dispensed by a
26 water-vending machine or retail water facility, or water from a
27 private water source, and that is dispensed by a water-vending
28 machine, retail water facility, water hauler, or any other
29 person or facility for drinking, culinary, or other purposes
30 involving a likelihood of the water being ingested by humans.

31 "Vended water" does not include water from a public water
32 system that has not undergone additional treatment. Water sold

1 without further treatment is not "vended water".

2 "Water-bottling plant" means any facility in which bottled
3 water is produced.

4 "Water-vending machine" means any self-service device
5 that, upon insertion of a coin, coins, or token, or upon
6 receipt of payment by any other means, dispenses a unit volume
7 of water to be used for drinking, culinary, or other purposes
8 involving a likelihood of the water being ingested by humans.

9 Section 10. Licenses required.

10 (a) No person may operate a water-bottling plant or a
11 private water source in this State, except pursuant to a
12 license issued by the Department. Bottled water must be
13 processed in conformance with 21 CFR Part 129 and must conform
14 to 21 CFR Part 165. If a person has a valid water-bottling
15 plant license issued by the Department, additional license fees
16 for a private water source operator based and operating at the
17 same address shall not be required.

18 (b) Any bottled water produced by a private water source or
19 water-bottling plant that is not licensed in compliance with
20 this Act is misbranded and may be embargoed.

21 (c) It is unlawful for a water bottler, water distributor,
22 water-vending machine owner, retail water facility, or private
23 water source operator to sell or otherwise distribute water
24 that is unsafe for use or that is adulterated or misbranded as
25 provided in the Illinois Food, Drug and Cosmetic Act.

26 (d) The licensing of activities relating to bottled water
27 as provided in this Section is an exclusive power and function
28 of the State. A home rule unit may not license any activities
29 relating to bottled water that are licensed under this Section.
30 This subsection is a denial and limitation of home rule powers
31 and functions under subsection (h) of Section 6 of Article VII
32 of the Illinois Constitution.

33 Section 15. Inspections and related activities.

34 (a) In order to carry out the purposes of this Act, any

1 duly authorized representative of the Department may, at any
2 reasonable hour of the day, do any of the following:

3 (1) Enter and inspect a licensed facility or any place
4 where bottled water or vended water records are stored,
5 kept, or maintained.

6 (2) Inspect and copy any records, reports, test
7 results, or other information required to implement this
8 Act.

9 (3) Obtain samples of the water supply and finished
10 product.

11 (b) The Department shall inspect every water-bottling
12 plant and private water source at least once each year. The
13 Department shall provide an opportunity for a representative of
14 the water-bottling plant or private water source operator to
15 accompany the Department's representative during the
16 inspection.

17 (c) Any person who prevents, interferes with, or attempts
18 to impede in any way any duly authorized representative of the
19 Department from undertaking any activity authorized by this
20 Section is guilty of a Class A misdemeanor.

21 Section 20. Water intended for bottling; storage,
22 transportation, and processing.

23 (a) Water intended for bottling shall not be stored,
24 transported, processed, or bottled through equipment or lines
25 used for any non-food product.

26 (b) Water intended for bottling shall not be stored,
27 transported, processed, or bottled through equipment or lines
28 used for any non-beverage food, except that filling equipment
29 may be used for non-beverage foods in accordance with the
30 following requirements:

31 (1) When filling equipment designed for cleaning in
32 place is utilized for non-beverage foods, that equipment
33 must be thoroughly cleaned and sanitized in place in
34 accordance with procedures specified by the manufacturer
35 and in 21 CFR Part 129 prior to being used for bottled

1 water.

2 (2) Fillers not designed for cleaning in place must be
3 completely disassembled for cleaning and sanitizing prior
4 to being used for bottled water.

5 Section 25. License fee. The fee for any license issued
6 under this Act is \$150. The fee must be paid to the Department
7 before a license may be issued. Licenses issued under this Act
8 shall be issued annually. Licenses must be renewed annually on
9 or before January 1 of the year for which they are issued. The
10 Department may impose an additional fee of \$50 on a person who
11 submits an application for a license after the deadline. The
12 Department shall use all fees received under this Act for the
13 purpose of recouping the costs of providing the services
14 required to be provided by the Department under this Act.

15 Section 30. Water-bottling plants located outside
16 Illinois. Every water-bottling plant located outside Illinois
17 that sells or distributes bottled water in Illinois must
18 annually register with the Department. The fee for registration
19 under this Act is \$150. The Department may impose an additional
20 fee of \$50 on an out-of-state water-bottling plant that
21 registers after the deadline set by the Department.

22 Section 35. Safe Bottled Water Fund. The Safe Bottled Water
23 Fund is established as a special fund in the State treasury.
24 All moneys received by the Department under this Act shall be
25 deposited into the fund. Moneys in the fund shall be used by
26 the Department, upon appropriation, for the purpose of
27 administering this Act.

28 Section 40. Denial, revocation, or suspension of license.

29 (a) The Department may deny any license application or
30 revoke or suspend any license issued under this Act for cause.
31 The Department shall inform the applicant or license holder of
32 the denial, revocation, or suspension in writing, stating with

1 particularity the reasons for the denial, revocation, or
2 suspension. The Department shall afford the applicant or
3 license holder an opportunity for a hearing in accordance with
4 the Illinois Administrative Procedure Act.

5 (b) For purposes of this Section, "cause" means a violation
6 of any provision of this Act or any regulation adopted pursuant
7 to this Act.

8 Section 45. Potential contamination.

9 (a) Upon a determination by the Department that a
10 particular water source is subject to potential contamination,
11 the Department shall notify the appropriate bottler,
12 distributor, or vendor of bottled water, owner or operator of a
13 water-vending machine, water hauler, retail water facility
14 operator, or private water source operator of the specific
15 contaminants or class of contaminants that pose a potential
16 health risk.

17 (b) Within 7 days after notification by the Department, the
18 bottler, distributor, or vendor of bottled water, owner or
19 operator of a water-vending machine, water hauler, retail water
20 facility operator, or private water source operator must
21 conduct an analysis of the water source and submit the results
22 of the analysis to the Department.

23 (c) If evidence of contamination is found, the Department
24 may, by order, require the bottler of bottled water, owner or
25 operator of a water-vending machine, or private water source
26 operator to conduct an analysis of the finished water product
27 for the contaminants of concern in accordance with conditions
28 specified by the Department. The water analysis must be
29 conducted and reported on an annual basis, unless the
30 Department finds that reasonable action requires either more
31 frequent or less frequent analysis.

32 Section 50. Testing laboratories. All testing of bottled
33 water, bottled water sources, water distributed by water
34 haulers, water from retail water facilities, and water from

1 vending machines must be done by competent laboratories
2 approved by the Department or another state's regulatory
3 agency.

4 Section 55. Water packaged for use in public emergencies.

5 (a) The Department, by its written permission, may allow a
6 person to package water for use in public emergencies without
7 obtaining a water bottling license if the emergency has
8 resulted in the interruption of, or has compromised the quality
9 of, the public drinking water supply. The Department's
10 permission may authorize the suspension of any provision of
11 this Act and related regulations.

12 (b) The Department may at any time change or impose on the
13 permittee any requirements, such as requirements concerning
14 testing, equipment, and documentation, that the Department
15 deems necessary to protect public health, but in doing so, the
16 Department must consider the effect of those requirements in
17 light of the urgency of the situation. The Department may grant
18 or withdraw this permission at any time.

19 (c) Packing, distribution, and use of water under a permit
20 shall be allowed only during the emergency period and shall end
21 upon the restoration of adequate public drinking supplies as
22 determined by the Department. Distribution of the packaged
23 water shall be limited to the area affected. Water so packaged
24 shall be prominently labeled "drinking water", "for emergency
25 use only", and "not for sale", or similar wording approved by
26 the Department.

27 (d) This Section shall not be construed to restrict
28 licensed water-bottling plants from providing water processed
29 in accordance with this Act in emergency situations.

30 Section 60. Violation; penalty. A person who commits a
31 violation of this Act other than a violation of subsection (c)
32 of Section 15 is guilty of a petty offense and subject to a
33 fine of not more than \$1,000.

1 Section 90. The State Finance Act is amended by adding
2 Section 5.625 as follows:

3 (30 ILCS 105/5.625 new)

4 Sec. 5.625. The Safe Bottled Water Fund.

5 Section 99. Effective date. This Act takes effect January
6 1, 2005.