



Written by [Michael Tennant](#) on August 10, 2011

The Scoop on Illinois' Crackdown on Artisan Ice Cream Makers

Getting and keeping the license, however, may be cost prohibitive for such a small business.

Swanberg began her career as an ice cream manufacturer in 2008 with a home ice cream maker she had received as a wedding present. As her business grew, she began producing her frozen treat out of a rental kitchen called [Logan Square Kitchen](#). Nice Cream, which, according to the *Tribune*, is "made from fresh organic cream blended with local and often organic produce like basil and strawberries [Swanberg] picks herself," proved so popular that it is now sold at over 20 locations in Chicago, including Whole Foods Market.



Consumers obviously like Swanberg's product; none seems to have complained to the state about it. Bureaucrats nevertheless turned up at Logan Square Kitchen a couple of weeks ago and gave Swanberg an ultimatum: Get a dairy license or get out of the ice cream business.

This was news to Swanberg and other Chicago artisanal ice cream makers, says the *Tribune*: "Swanberg and others in her field had operated for years now without ever hearing of such a thing and, indeed, they say, the City's Department of Business Affairs and Consumer Protection, to whom they applied for business licenses, never informed them they would need one to operate."

Swanberg told the newspaper that in order to get the license she would have to: (1) work out of her own space, not a shared kitchen; (2) have her product tested monthly for bacterial levels; (3) change all her packaging and labels to meet state standards; and (4) buy a pasteurizer, which she says the state told her would cost about \$40,000, or use a pre-made ice cream mix. In addition, the bureaucrats told her to use strawberry syrup or irradiated strawberries instead of fresh strawberries (because fresh ones could have bacteria). They said she could avoid having to get a license by using a pre-made ice cream mix. And they told the *Tribune* that "even if she uses pasteurized milk and boils all of her ingredients together, she would then need to pasteurize it in this special machine again."

Between the added expenses of the licensing requirements and the radical change to the product that using strawberry syrup and ice cream mix would bring about, the effect would be to put Nice Cream out of business. Other artisanal ice cream makers fear that they, too, could be frozen out of the market by the licensing requirements, the *Tribune* reports:

"I have to be worried. I am in too deep to cut my losses now," said a fellow ice cream maker who asked that her name not be used. "This is my life and passion, so I don't want to be shut down.

"Our biggest thing is wondering whether or not there is a way, considering the organic and local food



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movement, to change the regulations so that small local producers are not being regulated in the same ways as massive creameries — I mean, this is what they enforce for Häagen Dazs.”

In fact, the state legislature recently passed a bill that would apply different sets of rules to small and large businesses, but it does not include ice cream manufacturers. This approach has two major drawbacks. First, it assumes that the state ought to be micromanaging businesses to begin with. Second, it implies that treating businesses unequally before the law — because large businesses are somehow deserving of more onerous regulations than small ones — is an acceptable practice. Besides, if the regulations really exist to protect consumers from tainted foods, why shouldn't they apply to both large and small businesses?

There is the rub. Contrary to popular belief, most regulations are instituted at the behest of those already in business as a means of keeping competition down by making startup costs impossibly high. Large dairy companies and ice cream producers can afford pasteurization machines, bacterial tests, and licensing fees; small entrants into those industries cannot.

In that respect the bureaucratic assault on Nice Cream is similar to the [crackdown on raw-milk sellers](#) across the country. As locally produced, natural foods gain popularity at the expense of mass-produced, processed foods, government is stepping in to put a stop to it, all in the name of protecting the public — but in actuality preserving the profits of politically favored corporations.

Swanberg has stopped selling Nice Cream until she can obtain a license, which could be some time from now. “She hopes to meet with her fellow ice cream makers to figure out a plan that can allow them to deliver the same quality while abiding by state rules,” the *Tribune* reports.

Some observers have suggested an even better idea for them: Come up with a recipe to get the state to relax or repeal the rules. Then both the little guys and the big guys can easily operate under the same regulations; and someday, today's little guys may just end up as big guys, too.



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