

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 941

S.P. 290

In Senate, February 11, 1997

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### **An Act to Enhance the Potato Industry.**

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Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator KIEFFER of Aroostook.

Cosponsored by Representatives: BAKER of Dixfield, CROSS of Dover-Foxcroft.

**Be it enacted by the People of the State of Maine as follows:**

2           **Sec. 1. 7 MRSA §951, 3rd ¶**, as enacted by PL 1995, c. 298, §2,  
4 is amended to read:

6           Notwithstanding the provisions of article 4, the  
8 commissioner after consultation with the Maine Potato Board may  
10 require, by rules adopted pursuant to the Maine Administrative  
12 Procedure Act, the inspection of all ~~ex-a-portion-of-consumer~~  
14 ~~packs-of~~ potatoes for conformity with the U.S. #1 grade or other  
16 grades. Inspection under any rule adopted pursuant to this  
section must be performed by a licensed federal-state potato  
inspector, state potato inspector or seed potato inspector. At  
the request of and in consultation with the Maine Potato Board,  
the commissioner shall initiate rulemaking to require inspection  
of ~~consumer-packs~~ of potatoes.

18           **Sec. 2. 7 MRSA §1015, 4th ¶**, as amended by PL 1983, c. 465, §1,  
20 is further amended to read:

22           In order to insure the licensee's financial responsibility  
24 and to protect potato producers, the commissioner shall require  
26 the licensee to file a bond in a form and amount satisfactory to  
28 the commissioner, but in no event not less than ~~\$35,000~~ \$50,000  
30 nor more than ~~\$200,000~~ \$300,000 in the case of dealers and  
32 brokers, or not less than ~~\$50,000~~ \$100,000 nor more than ~~\$300,000~~  
34 \$500,000 in the case of processors, payable to the commissioner  
36 in ~~his~~ the commissioner's official capacity and conditioned on  
the full and prompt payment for all potatoes received or  
purchased from producers or other licensees during the effective  
period of the license. In the case of processors, the amount of  
bond required shall must be based on the licensee's anticipated  
monthly volume of purchases, but may be adjusted to reflect other  
federal escrow accounts or bond requirements met by the licensee  
which that satisfy the purposes of this section.

38           **Sec. 3. 7 MRSA §2103-A, sub-§4**, as enacted by PL 1987, c. 336,  
is amended to read:

40           **4. Release to public.** For the benefit of the Maine potato  
42 industry as a whole, only varieties of seed potatoes ~~of-a-variety~~  
44 ~~which-has~~ that have been released to the public, as provided in  
46 this subsection, may be certified, except that varieties of seed  
48 potatoes ~~of-a-variety-which~~ that are protected by patent or are  
otherwise not released to the public may be certified if the  
applicant for certification demonstrates that he the applicant  
has been authorized to propagate the variety by the patent holder  
or, if there is no patent, the registered breeder.  
Notwithstanding Title 1, chapter 13, all records pertaining to  
50 patented and nonreleased potato varieties received or kept by the

2 department are confidential and not available for inspection.  
3 The confidential status terminates when the records are  
4 subpoenaed as evidence in any proceeding to enforce a provision  
5 of this section or in any prosecution for a criminal violation.  
6 A grower may authorize in writing the disclosure of records  
7 pertaining to patented or nonreleased potato varieties. Pursuant  
8 to the rule-making provisions of the Maine Administrative  
9 Procedure Act, Title 5, chapter 375, the commissioner shall  
10 establish rules for the administration of this subsection,  
11 including, without limitation, procedures for demonstrating  
12 authorization from a patent holder or registered breeder and the  
13 establishment of a registry of bona fide breeders and patent  
14 holders of potato varieties. For purposes of this subsection, a  
15 potato variety ~~shall be~~ is deemed to have been released to the  
16 public upon publication of a description of that variety for  
17 purposes of release in the North America Potato Variety  
18 Inventory, published by the Potato Association of America, or in  
19 the American Potato Journal or another equivalent scientific or  
20 technical journal.

## 22 SUMMARY

24 This bill gives the Department of Agriculture, Food and  
25 Rural Resources authority to develop rules requiring the  
26 inspection of all potatoes, including bulk shipments. Currently,  
27 only potatoes in 50-pound packages or less are inspected. The  
28 bill also raises the bonding levels for potato dealers, brokers  
29 and processors; and makes information regarding patented potato  
30 varieties confidential.