

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

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Legislative Document

No. 966

H. P. 657

House of Representatives, February 3, 1965

Referred to Committee on Agriculture. Sent up for concurrence and ordered printed.

JEROME G. PLANTE, Clerk

Presented by Mr. Gilbert of Turner.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-FIVE

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AN ACT Establishing the Maine Apple Fund and Maine Apple Commission.

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

R. S., T. 36, c. 691, additional. Title 36 of the Revised Statutes is amended by adding a new chapter 691 to read as follows:

CHAPTER 691

APPLE TAX

§ 4271. Purpose

The production of apples is one of the most important agricultural industries of this State, and this chapter is enacted into law to conserve and promote the prosperity and welfare of this State and of the apple industry of this State by fostering and promoting better methods of production, processing, merchandising and advertising the said apple industry of this State.

§ 4272. Definitions

The terms used in this chapter shall be construed as follows:

1. **Box.** "Box" shall mean any container holding an equivalent weight of 32 to 44 pounds of apples. Containers holding less than 32 pounds, or more than 44 pounds of apples, shall be given box equivalents based on volume of 2,400 cubic inches, or 40 pounds of fruit equals one box, whichever is more convenient to calculate.

2. **Commission.** "Commission" shall mean the Maine Apple Commission, as created in section 4279.

3. Fresh fruit. "Fresh fruit" shall mean any apples, regardless of grade, sold to any person in or out of the State for any purpose other than those sold to a processor.

4. Fund. "Fund" shall mean the Maine Apple Fund, as created in section 4278.

5. Grower. "Grower" shall mean and include any person, partnership, association, firm or corporation who grows and sells 300 or more boxes of apples, whether as owner, lessee, agent or otherwise, including the State of Maine and any agency thereof.

6. Grower's agent. "Grower's agent" shall mean an authorized employee of the grower, the grower's sales agent, the commercial storage and packing house operator where the growers' apples are sent after harvest, and the person responsible for the distribution of the apples.

7. 100 weight or cwt. "100 weight" or "cwt" shall mean 100 pounds of apples, and, for the purpose of this tax, when apples are not weighed but sold for processing, 2.5 eastern apple boxes shall equal 100 pounds of apples.

8. Processing apples. "Processing apples" are all other apples not "fresh fruit" sold in or out of the State and used for canning, freezing, dehydrating, preserving, grinding, crushing or in any other way preserving or changing the form of apples, as defined, for marketing in any form other than for fresh consumption.

9. Season or seasonal year. "Season" or "seasonal year" shall mean the time between July 1st of any one year to and including June 30th of the following year.

10. Shipment, shipped or ship. "Shipment," "shipped" or "ship" shall be deemed to take place when the apples are loaded by the grower or his agent, whether in bulk or loose in boxes or other containers, in a truck or other conveyance to be transported. Apples being moved from the orchard where grown to a packing house or warehouse for grading, packing or storage shall not be deemed a shipment.

11. State Tax Assessor. "State Tax Assessor" shall mean the State Tax Assessor, or his authorized agent.

#### § 4273. Rate of tax

There is levied a tax of 3c per box of apples sold for fresh fruit, and 1c per 100 weight of apples sold for processing, to be paid by the grower of such apples at the time and manner provided.

#### § 4274. Certificate

Every grower shall file an application with the State Tax Assessor on forms prescribed and furnished by the State Tax Assessor, which shall contain the name under which such grower is transacting business, the place or places of business, and location of loading and shipping places, and agents of the grower; the names and addresses of the several persons constituting a firm or partnership, and, if a

corporation, the corporate name, and the names and addresses of its principal officers and agents. The State Tax Assessor shall then issue a certificate to the grower and no grower shall sell or ship apples, as defined in section 4272, until such certificate is furnished.

§ 4275. Records and reports; payment of tax

Every grower, grower's agent and processor of apples shall keep a complete and accurate record of the number of boxes or weight of apples shipped, sold, purchased or processed by him each seasonal year. Such record shall be in such form and contain such information as the State Tax Assessor shall, by rule or regulation, prescribe. Such records shall be preserved by the grower, grower's agent and processors of apples for a period of 2 years and shall be offered and submitted on demand by the State Tax Assessor. Every grower shall submit to the State Tax Assessor not later than January 15th of each year a signed statement of all apples subject to taxes provided in section 4273 sold by him or delivered to a processor between July 1st and December 31st of the preceding year, and not later than July 15th for all apples sold or delivered to a processor between December 31st and June 30th. With such reports, the grower shall forward payment of the amount due on the apples reported. Such apples shall be reported on forms prescribed and furnished by the State Tax Assessor.

§ 4276. Inspection

The State Tax Assessor shall have authority to enter any place of business of any grower, grower's agent or processor, or any truck or other conveyance in which apples are to be transported, and to inspect any books or records of any grower, grower's agent or processor for the purpose of determining what apples are taxable under this chapter, or for the purpose of determining the truth or falsity of any statement or return made by any grower, handler or processor.

§ 4277. False returns; violation; civil action for collection

Any grower or grower's agent of apples, as defined in section 4272, who shall make a false or fraudulent report or return required by this chapter, or who shall evade or violate any of the provisions of said chapter, shall be punished by a fine of not more than \$500. Whenever any grower shall fail to pay any tax due under this chapter within the time limited therein, the Attorney General shall enforce payment of such tax by civil action against such person for the amount of such tax, either in a court in and for the county in which such person has his residence or established place of business.

§ 4278. Appropriation of money received

Moneys received under this chapter shall be credited to the Treasurer of State to a fund to be known as the "Maine Apple Fund," which is hereby created. All such moneys shall be appropriated and used for the following purposes:

1. Collection and enforcement. For the collection of the tax provided, and the enforcement of all the provisions in this chapter;
2. Expenses. The payment of the expenses of the commission;
3. Balance of fund. The remaining funds may be expended by the commis-

sion to carry out the purposes of this chapter. Any unexpended balances shall not lapse, but shall remain a continuing carrying account.

§ 4279. Apple commission

There is created an executive board to be called the "Maine Apple Commission." The commission shall consist of 5 members, with one vote each, appointed by the Commissioner of Agriculture on advice and consent of the executive committee of the Maine State Pomological Society. Each member must be an individual actively engaged in the actual production of apples in Maine, and a grower by definition. The term of office of each member of the commission shall be 5 years, except that the initial commission members shall be appointed to terms of office of one, 2, 3, 4 and 5 years, with one member being appointed each year thereafter to replace the retiring member. No member may serve more than 2 terms consecutively, but may serve more than 2 terms in total. Members of the Maine Apple Commission shall be active, and in case a vacancy on the commission is created by resignation, death or any other reason, a replacement shall be appointed by the Commissioner of Agriculture on advice and consent by the executive committee of the Maine State Pomological Society to finish out the unexpired term. The commission shall, for the purpose of conducting business, have a quorum when at least 3 members are present. No member of the commission shall receive a salary for his duties, but shall be reimbursed for his actual expenses in the performance of his duties.

§ 4280. Duties and powers

The commission shall hold one general growers' meeting in August for the purpose of presenting a report, including major activities and accounting of the fund.

The Maine Apple Commission shall administer the Maine Apple Fund to effectuate the purposes set forth in this chapter. The commission may make contracts, expend money of the Maine Apple Fund and do whatever else may be necessary to carry on its duties.

The commission shall have authority to appoint a secretary and such other employees as may be necessary, at salaries to be fixed by the commission. All employees handling money shall be required to furnish surety bonds.

The commission shall have authority to cooperate with all local, state, regional and national agricultural and horticultural organizations and agencies, in research, education, regulation, marketing, promotion, expansion and development of the apple industry, and to expend moneys of the Maine Apple Fund for such purposes.