

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND FIFTH LEGISLATURE

---

---

Legislative Document

No. 1436

H. P. 1048

House of Representatives, March 10, 1971

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Mahany of Easton.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

---

---

AN ACT Revising the Maine Potato Tax Law.

---

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

Sec. 1. R. S., T. 36, §§ 4562 and 4563, repealed and replaced. Sections 4562 and 4563 of Title 36 of the Revised Statutes are repealed and the following enacted in place thereof:

§ 4562. Definitions

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

1. Dealer. "Dealer" means any person engaged in the business of buying or selling potatoes in wholesale or jobbing quantities in commerce, and includes:

A. Jobbers, distributors and other wholesalers;

B. Growers who market potatoes grown by others;

C. Brokers engaged in the business of negotiating sales and purchase of potatoes in commerce for or on behalf of the vendor or the purchaser respectively.

"Dealer" does not include persons engaged in canning or processing potatoes, or both, within the State where grown, whether or not the canned or processed product is to be shipped in interstate or foreign commerce.

2. Districts. "Districts" means each one of the geographical divisions of Maine as follows:

- A. District 1: Benedicta, Island Falls, Oakfield, Patten, Sherman Mills, Sherman Station, Smyrna Mills, Stacyville, Hodgdon, Houlton, Linneus, Ludlow, New Limerick, North Amity, Bridgewater, Littleton, Monticello.
- B. District 2: Blaine, Mars Hill, Robinson, Westfield, Easton, East Chapman, Presque Isle, Castle Hill, Mapleton, West Chapman, Ashland, Garfield, Masardis, Portage.
- C. District 3: Fort Fairfield, Caswell, Limestone, Caribou, Connor.
- D. District 4: Crouseville, Perham, Wade, Washburn, Woodland, New Sweden, Stockholm, Westmanland, Cyr, Hamlin, Keegan, Van Buren, Frenchville, Grand Isle, Lille, Madawaska, St. Agatha, St. David, Upper Frenchville, Eagle Lake, Fort Kent, Fort Kent Mills, St. Francis, St. John, Soldier Pond, TR 17, Wallagrass, Winterville.
- E. District 5: All the remaining counties, towns and townships in the State not included in Districts 1, 2, 3 and 4.

3. Potatoes. "Potatoes" shall mean and include all potatoes of the grades as recommended by the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture and such other grades as may from time to time be promulgated by the Department of Agriculture of the State of Maine and all potatoes sold for processing into food for human consumption in any form other than starch. The records of the Department of Agriculture of the State of Maine of the grades recommended by said Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture shall be prima facie evidence of such grades.

4. Processor. "Processor" means any person, firm or corporation in Maine engaged in processing potatoes into food for human consumption in any form other than starch.

5. Shipment. "Shipment" shall be deemed to take place when the potatoes are located within the State in the car, boat, truck or other conveyance in which the potatoes are to be transported.

6. Shipper. "Shipper" shall mean any person, partnership, association, firm or corporation engaged in the shipping of potatoes or transporting his own potatoes, whether as owner, agent or otherwise, to other than a licensed shipper, or engaged in the processing of potatoes into food for human consumption in any form other than starch.

#### § 4563. Potato Commission

1. Membership. The Maine Potato Commission shall consist of 7 members of whom 5 shall be growers, one shall be a processor and one shall be a dealer, appointed by the Commissioner of Agriculture, from nominations made in the following manner:

A. Growers. The Maine Potato Commission shall hold or cause to be held prior to August 1st of each year a meeting of growers in each of the

districts from which a commission member is to be appointed. At such meeting, at which at least 10% of the eligible growers in that district must be present in order to constitute a quorum, at least 5 growers shall be nominated for membership on the commission. If any district shall fail to nominate by the above procedure at least 5 growers by August 1st of any year, as soon thereafter as practicable the commission shall select at least 5 nominees from among the eligible growers in that district. Within 5 days of such meeting, or nominations by the commission, the commission shall prepare ballots containing the names in alphabetical order of all nominees in said district with space for write-ins and shall mail one ballot with proper instructions for voting and a stamped, self-addressed return envelope to each eligible grower in the appropriate district. Regardless of the number of districts in which a person grows potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates and representatives in designating nominees for commission members. In the event a person is growing potatoes in more than one district, such person shall elect the district within which he may participate in designating nominees. The commission shall set a date by which ballots must be post-marked or returned to the commission office in person. Not earlier than 3 nor later than 5 days following said date, the commission, of which a quorum must be present, shall tabulate the ballots and determine for each district from which a commission member is to be appointed the 3 nominees receiving the greatest number of votes. The names of these 3 persons in alphabetical order by districts and without specifying individual balloting results shall be immediately forwarded to the Commissioner of Agriculture who shall, prior to September 1st of that year, appoint from among those nominated one commission member for each district.

B. Processors. After consultation with all processors of potatoes into food for human consumption within the State, the commissioner shall, prior to September 1st of any year in which a processor member is to be appointed, appoint one processor member of the commission.

C. Dealers. The commissioner shall, prior to September 1st of any year in which a dealer member is to be appointed, appoint one dealer member of the commission from among 3 nominees selected by the Maine Potato Sales Association from among its membership.

2. Participation. Each person who is both a processor and a grower or both a dealer and a grower may participate in the selection of nominees only as a processor or as a dealer respectively.

3. Term. Each member appointed under this Act shall assume his office on September 1st of the year appointed and shall serve for a term of 2 years or until his successor is duly appointed and qualified, except that when the commission is first organized under this section the member who is a dealer and the members who are growers from districts 2 and 4 shall be appointed for one-year terms and the member who is a processor and the members who are growers from 1, 3 and 5, shall be appointed for 2-year terms. To fill any vacancy, however caused, a successor for his unexpired term shall be appointed as follows:

A. Growers. From among the previously unselected nominees on the most recent nominee list from the district involved;

B. Dealers. From among the previously unselected nominees on the most recent nominee list from the Maine Potato Sales Association;

C. Processors. In the manner specified in subsection 1, paragraph B.

4. Officers. At their first meeting of any fiscal year commission members shall select both a chairman and a vice-chairman from among their number. Five members of the commission, of which at least 3 must be grower members, shall be necessary to constitute a quorum and 4 concurring votes shall be required to pass any motion or approve any commission action. The members of the commission shall serve without pay except the chairman, or vice-chairman when acting as chairman, who shall receive a per diem of \$25 when in the performance of his duties and all commissioners shall be reimbursed for expenses incurred in the performance of their duties.

Sec. 2. R. S., T. 36, § 4565, repealed and replaced. Section 4565 of Title 36 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 4565. Rate of tax

A tax is levied and imposed at the rate of \$.012 per hundredweight on all potatoes raised in this State, except that no tax shall be imposed upon any potatoes which are retained by the grower to be used by him for seed purposes or for home consumption.

Sec. 3. R. S., T. 36, § 4568, repealed and replaced. Section 4568 of Title 36 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 4568. Tax deducted from selling price

Each shipper purchasing potatoes and paying, or becoming liable to pay, the tax imposed by section 4565 shall charge and collect from the seller a tax at the rate of \$.006 per hundredweight, to be deducted from the purchase price of all potatoes subject to the tax so purchased by such shipper.

Sec. 4. R. S., T. 36, § 4569, amended. The next to the last sentence of section 4569 of Title 36 of the Revised Statutes is repealed and the following enacted in place thereof:

On or before the first day of the calendar month succeeding the filing of said report, each shipper shall pay to the State Tax Assessor a tax at the rate of \$.012 per hundredweight upon all potatoes so reported as purchased, sold or shipped, as determined by the State Tax Assessor.

Sec. 5. R. S., T. 36, § 4571, repealed and replaced. Section 4571 of Title 36 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 4571. Appropriation of moneys received

Moneys received through this chapter by the Treasurer of State shall be appropriated and used for the following purposes:

1. Collection and enforcement. For the collection of the tax provided for by section 4565 and the enforcement of this chapter;

2. Better methods. For the purpose of investigating and determining better methods of production, shipment and merchandising of potatoes, and for the manufacture and merchandising of potato by-products under the supervision of the Maine Potato Commission;

3. Advertising. For the general purpose of merchandising and advertising Maine potatoes for food and for seed purposes under the direction of the Maine Potato Commission. The commission may use the advice and facilities of the Department of Economic Development and the Department of Agriculture in carrying out this subsection.

4. Balance of funds. The funds remaining over and above the expenses of carrying out this chapter, including the expenditures authorized under subsections 2 and 3, may be expended by the Potato Commission for such purposes as it may determine to be in the best interests of the Maine potato industry. The Potato Commission may expend annually a sum of money not in excess of \$10,000 for the purpose of enforcing laws relating to the branding of potatoes.

#### STATEMENT OF FACT

The changes basically are designed to provide for staggered terms of the Potato Commission members. Section 4563 requires appointment or reappointment of 3 members one year and 4 the next. Added to the section on how nominations are to be made is a stipulation that at least 10% of the growers in any district must be present at a nomination meeting. If 10% are not present at such a meeting prior to August 1st of any year, we have provided authority for the commission to select the nominees from that district.

As concerns section 4571, appropriation of moneys received, the Potato Commission should have the same latitude in deciding how much money should be spent within the broad outline laid down as is afforded the Maine Milk Commission under chapter 707. No set amounts are required to be spent for any specific purpose under either chapter 701, Blueberry Tax, chapter 705, Fertilizer Tax, chapter 706, Marine Worm Tax, chapter 711, Quahog Tax or chapter 713, Sardine Tax. In fact, it is only under the Potato Tax chapter of the statute where specific amounts are set forth for individual purposes. A commission duly appointed and qualified should have the authority under the guidelines set forth to appropriate moneys received under this chapter in whatever amounts it deems in the best interests of the industry.