

# MAINE STATE LEGISLATURE

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NEW DRAFT OF S. P. 686, L. D. 1867  
FIRST SPECIAL SESSION

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 2033**

S. P. 762

In Senate, February 17, 1972

Reported by Senator Peabody from Committee on Agriculture and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-TWO

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**AN ACT** Relating to Clarifying Definitions Relating to  
the Potato Industry of Maine.

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

**Sec. 1. R. S., T. 7, § 993, sub-§ 9, amended.** Subsection 9 of section 993 of Title 7 of the Revised Statutes is amended to read as follows :

**9. Potatoes.** "Potatoes" means all varieties of Irish potatoes grown within the State which retain the same physical form as possessed when harvested. The effects of the following operations shall not be considered as changing the physical form possessed by potatoes when harvested: Washing with or without chemicals; drying for the removal of surface moisture; slicing or cutting for seed purposes only; precooling, preheating, ventilating, humidifying or otherwise controlling atmospheric conditions in storage; treating with chemical formulations for sprout inhibition; waxing, packaging or otherwise preparing potatoes for marketing in what is generally considered to be fresh form.

**Sec. 2. R. S., T. 7, § 1012, sub-§ 5, ¶ B, amended.** Paragraph B of subsection 5 of section 1012 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is amended to read as follows :

**B.** Producers who buy and resell potatoes grown by others in wholesale or jobbing quantities.

**Sec. 3. R. S., T. 7, § 1012, sub-§ 9, amended.** Subsection 9 of section 1012 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is amended to read as follows :

**9. Retailer.** "Retailer" means a person engaged in the business of ~~selling~~ ~~of~~ buying potatoes in wholesale or jobbing quantities and reselling the potatoes bought primarily to consumers through at least 5 retail outlets located within or without the State of Maine.

**Sec. 4. R. S., T. 7, § 1012, sub-§§ 13 and 14, additional.** Section 1012 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is amended by adding 2 new subsections to read as follows:

**13. Wholesale or jobbing quantities.** "Wholesale or jobbing quantities" means aggregate quantities of potatoes totalling 25 tons (50,000 pounds) or more in weight purchased or contracted to be purchased in any calendar month. Potatoes purchased from licensees under this Article shall not be included in computing the aforesaid aggregate quantities.

**14. Processor.** "Processor" means any person other than a consumer who purchases or contracts to purchase potatoes primarily for manufacture into articles of food or starch by operations which change the physical form said potatoes possessed when harvested. The effects of the following operations shall be considered as changing the physical form possessed by potatoes when harvested: Chopping, slicing, cutting, dicing, mashing, removal of skin or peel, frying or otherwise cooking, freezing, canning, dehydrating or comparable methods of preparation for marketing in what is generally considered to be a processed form.

**Sec. 5. R. S., T. 7, § 1014, amended.** The 2nd paragraph of section 1014 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is repealed and the following enacted in place thereof:

No person shall buy, solicit or negotiate the sale of any potatoes in this State as a representative of any dealer, broker or retailer unless such representative has been so authorized by a duly licensed dealer, broker or retailer in writing, and a copy of such authorization is filed with the commissioner, except where such representative conducts business in the office of said dealer, broker or retailer. The commissioner shall be notified in writing by said dealer, broker or retailer immediately upon the termination of such authorization.

**Sec. 6. R. S., T. 7, § 1015, amended.** The last paragraph of section 1015 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is repealed and the following enacted in place thereof:

All fees collected under this Article shall be paid forthwith to the Treasurer of State and credited to the Department of Agriculture for the administration of this Article and other expenses incident to the administration of said department, and shall be expended by the said commissioner for the purposes for which said department is created. If any of such fees are not expended during the year in which they are collected, the unexpended balance shall not lapse, but shall be carried as a continuing account and available for the purposes specified until expended.

**Sec. 7. R. S., T. 7, § 1022, sub-§ 2, amended.** The last sentence of subsection 2 of section 1022 of Title 7 of the Revised Statutes, as enacted by chapter

366 of the public laws of 1971, is repealed and the following enacted in place thereof:

Any agreement the effect of which is to deny the producer of his right to satisfy his guarantee obligations as aforesaid and any agreement conflicting with the provisions of this subsection are null and void. Provided, however, a producer shall be deemed to waive his rights under this subsection or he may sell his potatoes under an agreement conflicting with the provisions of this subsection when the record of transaction required by this Article contains the following additional information:

A. Name and address of the person to whom the dealer resold the potatoes and any other person to whom the producer is obligated, directly or indirectly, by making any guarantees with regard to grade, size, weight or other specifications;

B. Point of final destination for said shipment of potatoes.

**Sec. 8. R. S., T. 7, § 1022, sub-§ 3, amended.** Subsection 3 of section 1022 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is amended to read as follows:

3. **Waiver.** In any sale by a producer in which the making of a record of such transaction is required by this Article and the name and address of the buyer are not set forth on such record, or if no such record of transaction is made or if a copy of said record of transaction is not delivered by depositing said copy in the United States mail, postage prepaid, addressed to the producer, prior to delivery of the potatoes at the point of final destination, the producer shall be deemed not to have made any guarantees with regard to grade, size, weight or other specifications, and such omission by the buyer or broker or agent shall constitute a waiver of any and all claims against the producer for breach of warranty, expressed or implied.

**Sec. 9. R. S., T. 7, § 1023, amended.** Section 1023 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is amended to read as follows:

**§ 1023. Brokers and agents**

1. **Brokerage fee.** The brokerage fee, if any, shall be an agreed upon percentage of the gross proceeds from the sale, exclusive of the costs of transportation, and shall be charged the seller only upon receipt of payment in full of said gross proceeds from the buyer.

2. **Duties of brokers.** In addition to all the duties of the broker otherwise imposed by law or by agreement, the broker shall have the following duties:

A. The broker shall invoice the buyer, shall collect and remit to the seller and any secured party noted on the record of the transaction any and all sums due on account of the sale, and shall render an itemized accounting to the seller promptly upon receipt of payment, showing the true gross selling price, all brokerage fees deducted, and any other charges or ex-

penses incurred in connection with the sale of the potatoes. Agreement to collect from the buyer and remit to the seller is not a guarantee by the broker that the buyer will pay for the potatoes purchased, unless there is a specific agreement by the broker that the broker will pay if the buyer does not pay.

**B.** The broker shall, to the best of his ability, make all necessary arrangements to effect the transportation of said shipment to the buyer, but the broker, in the absence of a specific agreement, does not guarantee the carrier payment of carrier charges.

**C.** The broker shall prepare, file and fully process with the carrier any and all claims for the seller of the potatoes, including taking all necessary action to bring the matter to a conclusion.

**3. Agents contracts.** No person required to be licensed by this Article shall act as an agent for any grower without first having an agreement with the grower reduced to a written contract clearly defining the duties and responsibilities of both parties, the extent of the agent's authority in distributing the potatoes, and the agent's fee or selling charge, if any.

**4. Agent's fees.** The agent's fee or selling charge shall be charged the seller only upon receipt from the buyer of payment in full of the gross proceeds from the sale.

**5. Duties of agents.** In addition to all the duties of the agent of any grower otherwise imposed by law, rule or regulation, or by agreement, the agent shall have the same duties as are imposed upon the broker by subsection 2, paragraphs A, B and C.

**Sec. 10. R. S., T. 7, § 1024, sub-§ 3, additional.** Section 1024 of Title 7 of the Revised Statutes, as enacted by chapter 366 of the public laws of 1971, is amended by adding a new subsection 3 to read as follows:

**3. Retailers.** Retailers are exempt from this Article.