

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

(Filing No. H-750)

COMMITTEE AMENDMENT "A" to H.P. 1390, L.D. 1798, Bill,
"AN ACT Concerning the Potato Tax and the Maine Potato Commission."

Amend said Bill by striking out everything after the
enacting clause and inserting in place thereof the following:

'Sec. 1. 36 MRSA §4562, as last repealed and replaced
by PL 1971, c. 428, §1, is repealed and the following enacted
in place thereof:

§4562. Definitions

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

1. Commission. "Commission" shall mean the Maine Potato
mission.

2. District. "District" 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, / - 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. Fiscal year. "Fiscal year" means the 12-month period
beginning September 1st and ending August 31st.

4. Potatoes. "Potatoes" shall mean and include all potatoes,
whether graded or ungraded, including all potatoes sold for
processing into food; but shall not include potatoes sold for
processing into starch unless such potatoes are sold under a
federal diversion program and paid for as grade potatoes.

5. Processor. "Processor" means any person, firm or
corporation in Maine engaged in processing potatoes into food
or starch.

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

7. Shipper. "Shipper," for the purposes of this chapter, shall mean any person, partnership, association, firm or corporation engaged in the business of any of the following:

A. Agent or broker, by selling or distributing potatoes in commerce for or on behalf of growers or others, or by negotiating sales of potatoes in commerce for or on behalf of the seller or the purchaser, respectively;

B. Dealer, by purchasing potatoes in commerce for resale to other than directly to consumers;

C. Processor, as defined in subsection 5,

D. Grower, only when selling potatoes to anyone other than the parties set forth in ^{paragraphs} A, B, or C.

Sec. 2. 36 MRS §4563, sub-§1, as last repealed and replaced by PL 1971, c. 428, §1, is repealed and the following enacted in place thereof:

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 shipper, appointed by the Commissioner of Agriculture in the following manner.

A. Growers. The commissioner shall, prior to September 1st of any year in which a grower member or members are to be appointed and on recommendation of the various grower associations, individuals or unorganized groups of growers in the affected districts, appoint one grower member for each of the appropriate districts.

B. Processors. The commissioner shall, prior to September 1st of any year in which a processor member is to be appointed and after consulting with the various processor associations, individuals or unorganized groups of processors in the State, appoint one processor member of the commission.

C. Shippers. The commissioner shall, prior to September 1st of any year in which a shipper member is to be appointed and on recommendation of the various shipper associations, individuals or unorganized groups of shippers in the State, appoint one shipper member of the commission.

Sec. 3. 36 M.R.S.A. §4563, sub-§3, as last amended by PL 1971,

c. 622, §128, is repealed and the following enacted in place thereof:

3. Term. Each member appointed under this chapter shall take office on September 1st of the year appointed and shall serve for a term of 3 years or until a successor is duly

appointed and qualified. No member is eligible for reappointment to the commission for a period of one year from the date of expiration of the 2nd of 2 consecutive 3-year terms. To fill any vacancy, however caused, the commissioner shall appoint a successor for the unexpired term, which successor shall be appointed from the same district or industry segment as was represented by the predecessor member.

Sec. 4. 36 MRSA §4563-A is enacted to read:

§ 4563-A. Powers and duties

The powers and duties of the Maine Potato Commission, subject to Title 5, chapters 7 and 143 and Title 7, chapter 1, shall include the following:

1. Rules and regulations. To adopt and promulgate rules and regulations for the operation of the commission;

2. To contract and to be contracted with. To make contracts or enter into contracts with any local, state, federal or private agency, department, firm, corporation or association for the purpose of the following:

A. Research in connection with the production, processing, manufacture and marketing of potatoes and potato products; and

B. Advertising to promote Maine potatoes and potato products;

Advertising and promotion of grades of potatoes.

3. / To advertise and promote, after public hearing and in conformance with Title 7, ~~sections~~ 950 to 957, grades of potatoes as

defined by the Department of Agriculture, and to designate labels or other distinctive marks which may appear on packages of Maine potatoes in order to secure the greatest returns to producers and to meet the requirements of its advertising and promotion campaigns;

Books and records.

4. / To keep books, records and accounts of all its activities, which shall be open to inspection and audit by the State at all times. The State Department of Audit shall conduct an annual audit at the expense of said commission and shall report the results of its audit to the Legislature, State Treasurer and to the commission;

Facilities, equipment and supplies.

5. / To lease, purchase or own the facilities, equipment, and supplies it deems necessary to carry out the purposes of this chapter; and

Outside funding.

6. / To accept grants, donations and gifts of funds to be expended for purposes defined in this chapter.

Sec. 5. 36 MRSA §4565, as last repealed and replaced by PL 1971, c. 428, §2, is repealed and the following enacted in place thereof:

§4565. Rate of tax

A tax is levied and imposed at the rate of \$.025 per hundred-weight on all potatoes raised in this State prior to July 1, 1978, and at the rate of \$.012 per hundredweight on all potatoes raised in this State after July 1, 1978, except that no tax shall be imposed on any potatoes which are retained by the grower to be used by him for seed purposes or for home consumption.

Sec. 6. 36 MRSA §4568, as last repealed and replaced by PL 1971, c. 428, §3, is repealed and the following enacted in place thereof:

§4568. Tax deducted from selling price

Each shipper purchasing, shipping, receiving, processing, handling or selling potatoes grown by another and paying, or becoming liable to pay, the tax imposed by section 4565 shall charge and collect from the person from whom the potatoes were acquired an amount equal to 1/2 the rate of tax imposed by section 4565 to be deducted from the purchase price of all potatoes subject to the tax so purchased, shipped, received, processed, handled or sold by such shipper.

Sec. 7. 36 MRS.A §4571, as last amended by PL 1971, c. 584, §1, is repealed and the following enacted in place thereof:

§4571. Appropriation of moneys received

Money received through this chapter by the State Treasurer shall be appropriated and used by said commission 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. A sum which shall equal at least \$50,000 shall be used and applied 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;

3. Advertising. For the general purpose of merchandising and advertising Maine potatoes for food and for seed purposes;

4. Administration. For expenses in connection with administering this chapter, including employment of necessary staff and contracting for the performance of required services; participation jointly with any organization of growers, shippers and

processors in this State in financing such projects, programs and activities as are complementary to the purposes of this chapter; provided that the annual sum appropriated and expended pursuant to this subsection shall not exceed an amount equal to 20% of the total moneys received in any given year; and

5. Balance of funds. The funds remaining over and above the expenses of carrying out this chapter, including the expenditures authorized under subsections 1, 2, 3, and 4, shall not lapse, but shall be carried in a continuous carrying account to be expended for the purposes of this chapter.

Sec. 8. Applicability. Nothing in this Act shall affect the length of term to which any member of the Maine Potato Commission has been appointed before the effective date of this Act, nor the validity of the appointment. However, upon expiration of the term of any member serving on the commission on the effective date of this Act, that vacancy shall be filled by appointment or reappointment for a term of 3 years and the person so appointed or reappointed shall be subject to all provisions of this Act.

Statement of Fact

The purpose of this Amendment is to clarify the powers and duties of the Maine Potato Commission. In addition, it reduces the authority and powers granted to the Potato Commission in the original bill. The Amendment preserves the authority of existing state agencies in regard to the operation of the Maine Potato Tax Commission.

Reported by the Committee on Agriculture.

Reproduced and distributed under the direction of the Clerk of
the House.

6/16/75

(Filing No. H-750)