

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1544

H. P. 1233

House of Representatives, March 28, 1979

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

EDWIN H. PERT, Clerk

Presented by Mr. Mahany of Easton.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Establish the Maine Potato Industry Promotion Board and to Set the
Potato Tax at \$.0125 per Hundredweight.**

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

Sec. 1. 36 MRSA § 4562, sub-§ 1, as repealed and replaced by PL 1975, c. 554, § 1, is repealed and the following enacted in its place:

1. Board. "Board" means the Maine Potato Industry Promotion Board.

Sec. 2. 36 MRSA § 4562, sub-§ 2, as repealed and replaced by PL 1975, c. 554, § 1, is repealed.

Sec. 3. 36 MRSA § 4563, sub-§ 1, as repealed and replaced by PL 1975, c. 554, § 1, is repealed and the following enacted in its place:

1. Membership. The Maine Potato Industry Promotion Board shall consist of 7 members, one of whom shall be the Commissioner of Agriculture, one of whom shall be the Dean of the College of Agriculture of the of the University of Maine and 5 of whom shall be appointed by the Commissioner of Agriculture. The commissioner and the dean shall serve ex officio. Of the appointed members, 3 shall be processors appointed in accordance with paragraph A and 2 shall be shippers appointed in accordance with paragraph B.

A. 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 board.

B. 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 board.

Sec. 4. 36 MRSA § 4563, sub-§ 2, as repealed and replaced by PL 1971, c. 428, § 1, is repealed and the following enacted in its place:

2. Qualifications. Appointed members of the board shall be resident citizens of the State and be actively engaged in shipping or processing of potatoes produced in the State.

Sec. 5. 36 MRSA § 4563, sub-§ 3, as repealed and replaced by PL 1975, c. 554, § 3, is amended to read:

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 board~~ 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. 6. 36 MRSA § 4563, sub-§§ 4 and 5, as repealed and replaced by PL 1971, c. 428, § 1, are amended to read:

4. Officers. At their first meeting of any fiscal year ~~commission board~~ members shall select both a chairman and a vice-chairman from among their number. Five members of the ~~commission board~~ shall be necessary to constitute a quorum and 4 concurring votes shall be required to pass any motion or approve any ~~commission board~~ action. The members of the ~~commission board~~ shall serve without pay except the chairman, 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.

5. Administration. The ~~commission board~~ is authorized to select and employ an executive director to administer the policies established by the ~~commission board~~, and to fix his salary and term of employment. The executive director, with the consent of the ~~commission board~~, is authorized to engage sufficient clerical personnel and other employees for the efficient performance of his duties. Neither the employment of the executive director by the ~~commission board~~ nor the employment of other employees by the executive director shall be subject to the Personnel Law.

Sec. 7. 36 MRSA § 4563-A, first ¶, as enacted by PL 1975, c. 554, § 4, is amended to read:

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

Sec. 8. 36 MRSA § 4563-A, sub-§ 1, as amended by PL 1977, c. 694, § 717, is further amended to read:

1. Rules and regulations. To adopt and promulgate, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for the operation of the ~~commission~~ **board**;

Sec. 9. 36 MRSA § 4563-A, sub-§ 4, as enacted by PL 1975, c. 554, § 4, is further amended to read:

4. Books and records. 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~~ **the board** and shall report the results of its audit to the Legislature, ~~State Treasurer~~ **Treasurer of State** and to the ~~commission~~ **board**;

Sec. 10. 36 MRSA § 4565, as amended by PL 1977, c. 651, is repealed and the following enacted in its place:

§ 4565. Rate of tax

A tax is levied and imposed at the rate of \$.0125 per hundredweight on all potatoes purchased, sold or shipped by a shipper in this State.

Sec. 11. 36 MRSA § 4568, as last repealed and replaced by PL 1975, c. 554, § 6, is repealed.

Sec. 11-A. 36 MRSA § 4569, 2nd sentence, as amended by PL 1975, c. 554, § 6-A, is further amended to read:

At the time of filing said report, each shipper shall pay to the State Tax Assessor a tax rate at the rate of ~~\$.025~~ **\$.0125** per hundredweight upon all potatoes so reported as purchased, sold or shipped.

Sec. 12. 36 MRSA § 4571, first ¶, as repealed and replaced by PL 1975, c. 554, § 7, is amended to read:

Money received through this chapter by the ~~State Treasurer~~ **Treasurer of State** shall be appropriated and used by ~~said commission~~ **the board** for the following purposes:

Sec. 13. Funds and assets transferred. Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account or subdivision of an account of the Maine Potato Commission shall be transferred to the proper place in the Maine Potato Industry Promotion Board by the State Controller on the recommendation of the Commissioner of Agriculture.

Sec. 14. Amendatory clause. Wherever in the Maine Revised Statutes the words "Maine Potato Commission" appear they shall mean "Maine Potato Industry Promotion Board."

Sec. 15. Rules, regulations and procedures. All regulations currently in effect and in operation in the Maine Potato Commission shall continue in effect unless in conflict with this Act, until rescinded, amended or changed according to law.

For the purpose of this section "regulation" includes, but is not limited to, any rule, regulation, order, administrative procedure, authorization, permit, license or agreement.

STATEMENT OF FACT

The bill establishes the Maine Potato Industry Promotion Board in place of the Maine Potato Commission. The board will consist of 7 members: The Commissioner of Agriculture, ex officio; the Dean of the College of Agriculture, ex officio; 3 potato processors, to be appointed by the Commissioner of Agriculture, and 2 potato shippers, to be appointed by the Commissioner of Agriculture.

The duties of the board are basically the same duties which the commission has. The bill establishes a tax of \$.0125 per hundredweight on potatoes purchased, sold or shipped by a shipper in this State. This tax will be used to carry out the work of the board. This tax is $\frac{1}{2}$ the current potato tax and applies only to "shippers," a term which by definition includes "processors."