

MAINE STATE LEGISLATURE

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(After Deadline)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2352

H.P. 1774

House of Representatives, March 22, 1984

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

EDWIN H. PERT, Clerk

Presented by Representative Lisnik of Presque Isle.

Cosponsors: Representative Theriault of Fort Kent and Representative Mahany of Easton.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT to Amend the Potato Price
Stabilization Program.

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

Sec. 1. 5 MRSA §711, sub-§2, ¶A, as amended by PL 1983, c.349, §2; c. 480, §3; c. 489, §4; and c. 566, §1, is repealed and the following enacted in its place:

A. The following positions in the following departments are major policy-influencing positions. These positions and their successor positions shall be subject to this subsection, notwithstanding any other provision of law:

(1) Department of the Attorney General:

(a) Deputy Attorneys General; and

- 1 (b) Assistant Attorneys General;
- 2 (1-A) Department of Agriculture, Food and
3 Rural Resources:
- 4 (a) Deputy Commissioners;
- 5 (b) Associate Commissioner for Policy
6 Development;
- 7 (c) Director, Bureau of Agricultural
8 Productions;
- 9 (d) Director, Bureau of Agricultural
10 Marketing;
- 11 (e) Director, Bureau of Agricultural
12 and Rural Resources;
- 13 (f) Director, Bureau of Public Ser-
14 vices; and
- 15 (g) Assistant to the Commissioner for
16 Public Information;
- 17 (2) Department of Business, Occupational
18 and Professional Regulation:
- 19 (a) Superintendent, Bureau of Banking;
- 20 (b) Superintendent, Bureau of Consumer
21 Credit Protection;
- 22 (c) Superintendent, Bureau of Insur-
23 ance; and
- 24 (d) Assistant to the Commissioner;
- 25 (3) Department of Conservation:
- 26 (a) Director, Administrative Services;
- 27 (b) Director, Planning and Program
28 Services;
- 29 (c) Director, Bureau of Forestry;

- 1 (d) Director, Maine Geological Survey;
2 (e) Executive Director, Maine Land Use
3 Regulation Commission;
4 (f) Director, Bureau of Parks and
5 Recreation;
6 (g) Director, Bureau of Public Lands;
7 (h) Forest Insect Manager, Bureau of
8 Forestry;
9 (i) Assistant to the Commissioner for
10 Public Information; and
11 (j) Assistant to the Commissioner;
12 (4) Department of Educational and Cultural
13 Services:
14 (a) Assistant to the Commissioner;
15 (b) Deputy Commissioner;
16 (c) Associate Commissioner, Bureau of
17 School Management;
18 (d) Associate Commissioner, Bureau of
19 Instruction;
20 (e) Associate Commissioner, Bureau of
21 Vocational Education;
22 (f) Director, Planning and Management
23 Information; and
24 (g) Federal and State Education Pro-
25 gram Coordinator;
26 (4-A) Department of Environmental Protec-
27 tion:
28 (a) Deputy Commissioner; and
29 (b) Assistant to the Commissioner;

1 (5) Department of Finance and Administra-
2 tion:

3 (a) State Controller;

4 (b) State Purchasing Agent;

5 (c) State Tax Assessor;

6 (d) Director, Bureau of Public Im-
7 provements;

8 (e) Director, Bureau of Alcoholic Bev-
9 erages;

10 (f) State Budget Officer;

11 (g) Assistant to the Commissioner; and

12 (h) Director, Risk Management;

13 (6) Department of Human Services:

14 (a) Deputy Commissioners;

15 (b) Director, Bureau of Maine's Elder-
16 ly;

17 (c) Director, Bureau of Resource De-
18 velopment;

19 (d) Director, Bureau of Health;

20 (e) Director, Bureau of Rehabilita-
21 tion;

22 (f) Director, Bureau of Income Mainte-
23 nance;

24 (g) Director, State Health Planning
25 and Development Agency; and

26 (h) Director, Bureau of Medical Ser-
27 vices;

28 (7) Maine Human Rights Commission:

- 1 (a) Executive Director; and
- 2 (b) Chief Compliance Officer;
- 3 (8) Department of Inland Fisheries and
4 Wildlife;
- 5 (a) Deputy Commissioner;
- 6 (b) Game Warden Colonel;
- 7 (c) Assistant to the Commissioner for
8 Public Information; and
- 9 (d) Assistant to the Commissioner;
- 10 (9) Maine State Lottery Commission:
- 11 (a) Deputy Director;
- 12 (10) Department of Labor:
- 13 (a) Director, Maine Job Training Coun-
14 cil;
- 15 (b) Director, Bureau of Labor Stan-
16 dards;
- 17 (c) Executive Director, Maine Labor
18 Relations Board;
- 19 (d) Assistant to the Commissioner;
- 20 (e) Assistant to the Commissioner for
21 Public Information;
- 22 (f) Director, Planning and Program
23 Services;
- 24 (g) Executive Director, Bureau of Em-
25 ployment Security;
- 26 (h) Executive Secretary, Maine Occupa-
27 tional Information Coordinating Commit-
28 tee; and
- 29 (i) Executive Director, Bureau of Em-
30 ployment and Training Programs;

1 (11) Department of Marine Resources:

2 (a) Deputy Commissioner;

3 (b) Chief, Bureau of Marine Patrol;
4 and

5 (c) Assistant to the Commissioner;

6 (12) Department of Mental Health and Mental
7 Retardation:

8 (a) Associate Commissioner;

9 (b) Director, Bureau of Mental Health;

10 (c) Superintendent, Augusta Mental
11 Health Institute;

12 (d) Superintendent, Bangor Mental
13 Health Institute;

14 (e) Director, Bureau of Mental Retar-
15 dation;

16 (f) Superintendent, Pineland Center;
17 and

18 (g) Director, Bureau of Corrections;

19 (13) Department of Defense and Veterans'
20 Services:

21 (a) Deputy Adjutant General;

22 (b) Director, Bureau of Civil Emergen-
23 cy Preparedness; and

24 (c) Director, Bureau of Veterans' Ser-
25 vices;

26 (14) Department of Public Safety:

27 (a) Chief, Bureau of State Police;

28 (b) Director, Bureau of Liquor En-
29 forcement;

- 1 (c) Director, Office of State Fire
2 Marshal;
- 3 (d) Director, Maine Criminal Justice
4 Academy;
- 5 (e) Assistant to the Commissioner for
6 Public Information;
- 7 (f) Assistant to the Commissioner; and
- 8 (g) Two Deputy Chiefs, State Police;
- 9 (15) Department of Secretary of State:
- 10 (a) Deputy Secretaries of State; and
- 11 (b) State Archivist;
- 12 (16) Department of Transportation:
- 13 (a) Deputy Commissioners;
- 14 (b) Chief Counsel, Bureau of Legal
15 Services;
- 16 (c) Assistant to the Commissioner; and
- 17 (d) Assistant to the Commissioner for
18 Public Information; and
- 19 (17) Department of Personnel:
- 20 (a) Assistant to the Commissioner; and
- 21 (b) Director, Planning and Operations.

22 Sec. 2. 7 MRSA §1008, as enacted by PL 1983, c.
23 582, §1, is amended to read:

24 §1008. Purpose

25 The Legislature finds that the potato industry
26 has a substantial and unique effect on the economy of
27 the entire State, Aroostook County in particular.
28 Over the years, the industry has experienced wide
29 fluctuations in price and price has sometimes not

1 completely reflected the actual demand for Maine po-
2 tatoes. These fluctuations have caused instability
3 in the economy of a large portion of the State. In
4 seeking to reduce this instability, it is the
5 Legislature's purpose to supplant destructive price
6 competition by requiring the commissioner to set a
7 daily minimum price governing the sale of potatoes by
8 first handlers determine and report market conditions
9 and the fair market value of potatoes offered by
10 first handlers. This program will encourage the or-
11 derly marketing of potatoes grown within this State
12 and reduce economic waste in the marketing of these
13 potatoes.

14 Sec. 3. 7 MRSA §1008-A, sub-§4, as enacted by PL
15 1983, c. 582, §1, is repealed and the following en-
16 acted in its place:

17 4. Daily fair market value. "Daily fair market
18 value" means the value defined by the commissioner
19 pursuant to section 1008-C, subsection 2, as adjusted
20 by the applicable differential established consistent
21 with section 1008-C, subsection 1.

22 Sec. 4. 7 MRSA §1008-A, sub-§6, as enacted by PL
23 1983, c. 582, §1, is amended to read:

24 6. First handler. "First handler" means any
25 person employed in the business of loading or of
26 placing table stock potatoes in any type of container
27 for exposure for sale, provided that first handler
28 does not means mean any person loading potatoes in
29 bulk for delivery to a processor; which delivery
30 shall occur in this State.

31 Sec. 5. 7 MRSA §1008-B, sub-§1, as enacted by PL
32 1983, c. 582, §1, is amended to read:

33 1. Board membership. There shall be created an
34 advisory board to advise the commissioner on potato
35 marketing issues as provided for in this Article.
36 This board shall be known as the Maine Marketing Ad-
37 visory Board and shall consist of 5 members appointed
38 by the commissioner, of whom 3 shall be licensed
39 first handlers, who are not also licensed dealers,
40 and 2 shall be licensed dealers. Members shall each
41 fill a 2-year term, which shall begin on July 1st,

1 except that within 30 days of the effective date of
2 this Article the commissioner shall appoint one
3 ~~lic~~ensed first handler and one licensed dealer who
4 shall serve until June 30, 1984, and he shall appoint
5 2 ~~lic~~ensed first handlers and one licensed dealer who
6 shall serve until June 30, 1985.

7 Sec. 6. 7 MRSA §1008-B, sub-§7, as enacted by PL
8 1983, c. 582, §1, is amended to read:

9 7. Expenses and compensation. No board member
10 may receive a salary, but each may be entitled to his
11 actual expenses incurred while engaged in performing
12 his authorized duties. The commissioner may employ
13 necessary personnel including an assistant for potato
14 marketing, fix their compensation and terms of em-
15 ployment and authorize them to incur such expenses,
16 as the commissioner may deem necessary and proper to
17 enable the board properly to perform its duties as
18 are authorized in this Article.

19 Sec. 7. 7 MRSA §1008-B, sub-§8, ¶A, as enacted
20 by PL 1983, c. 582, §1, is amended to read:

21 A. Prior to the beginning of each marketing
22 year, study the existing supply of potatoes in
23 the State and the existing and potential market
24 for the potatoes and shall recommend to the com-
25 missioner a pricing strategy for the marketing
26 year or any month or portion thereof. In devel-
27 oping this policy, the board shall consider eco-
28 nomic and marketing information, including the
29 estimated volume of Maine potatoes; the estimated
30 volume of potatoes available in other areas; the
31 past, present and prospective demand for Maine
32 potatoes of various grades, sizes and varieties;
33 and conditions under which a daily minimum price
34 might be disruptive to the marketing process fair
35 market value can not be determined. The board
36 shall advise the commissioner of its findings
37 along with recommendations for procedures to
38 guide the establishment determination of a daily
39 minimum price fair market value; and

40 Sec. 8. 7 MRSA §1008-C, sub-§1, as enacted by PL
41 1983, c. 582, §1, is amended to read:

1 1. Determination of guidelines; price differen-
2 tials; information. After considering recommenda-
3 tions of the board and after notice and opportunity
4 for hearing, adopt determine:

5 A. Guidelines for establishing a daily minimum
6 price fair market value as provided for in sub-
7 section 2. These guidelines shall be designed to
8 assure that table stock producers receive a price
9 have available to them a fair market value which
10 reflects the market demand for their potatoes and
11 include, but not be limited to, consideration of:

12 (1) Prices for potatoes from other areas;

13 (2) Supplies of Maine potatoes of various
14 varieties and grades;

15 (3) Current and projected prices for Maine
16 potatoes systematically collected from
17 sources representing all elements of the
18 Maine table stock industry;

19 (4) Benefits which will result from estab-
20 lishing a minimum price; and

21 (4-A) Conditions under which a fair market
22 value cannot be determined; and

23 (5) Other pertinent market factors;

24 B. Price differentials that vary from the mini-
25 imum price fair market value established under
26 subsection 2, to reflect such factors as quality,
27 container type and transportation costs. Whenever
28 the commissioner has reasonable grounds to be-
29 lieve that the differentials so established no
30 longer reflect the market conditions, he may
31 adopt or modify these differentials after notice
32 and opportunity for hearing has been provided in
33 a manner consistent with the Maine Administrative
34 Procedure Act, Title 5, chapter 375; and

35 C. Procedures for disseminating daily minimum
36 price fair market value and other information to
37 all interested parties;

1 Sec. 9. 7 MRSA §1008-C, sub-§2, as enacted by PL
2 1983, c. 582, §1, is repealed and the following en-
3 acted in its place:

4 2. Daily fair market value. Based on guidelines
5 established in subsection 1, determine a daily fair
6 market value to first handlers for round white pota-
7 atoes offered F.O.B., Presque Isle, for United States
8 number 1, size A, 2-inch minimum, packed in 50-pound
9 containers. Upon request of the board, the commis-
10 sioner shall provide to the board and other inter-
11 ested parties a written explanation of the basis for
12 the fair market value as it is determined on any
13 given day;

14 Sec. 10. 7 MRSA §1008-C, sub-§3, as enacted by
15 PL 1983, c. 582, §1, is amended to read:

16 3. Access to information. Ensure that no dealer
17 or first handler will have access to the information
18 which is the basis for the daily minimum price fair
19 market value prior to the establishment of that price
20 value by the commissioner. The basis of price the
21 fair market value determination and the price value
22 itself before it is released as public information
23 shall be considered confidential information for pur-
24 poses of the freedom of access law, Title 1, section
25 402, subsection 3, and.

26 Sec. 11. 7 MRSA §1008-C, sub-§4, as enacted by
27 PL 1983, c. 582, §1, is repealed.

28 Sec. 12. 7 MRSA §§1008-D and 1008-E, as enacted
29 by PL 1983, c. 582, §1, are repealed.

30 Sec. 13. 7 MRSA §1008-F, as enacted by PL 1983,
31 c. 582, §1, is amended to read:

32 §1008-F. Budget

33 Each fiscal year, the commissioner shall develop
34 a budget to provide for the efficient and effective
35 operation of a program to carry out the purposes of
36 this Article. ~~This information shall be the basis~~
37 ~~for establishing licensing fees authorized under the~~
38 ~~provisions of Article 3-A.~~

1 Sec. 14. 7 MRSA §1008-H, as enacted by PL 1983,
2 c. 582, §1, is repealed.

3 Sec. 15. 7 MRSA §1017, sub-§1-A, as enacted by
4 PL 1983, c. 582, §2, is repealed.

5 Sec. 16. 7 MRSA c. 103, sub-c. X, Art. 3-A, as
6 amended, is repealed.

7 Sec. 17. Appropriation. The following funds are
8 appropriated from the General Fund to carry out the
9 purposes of this Act:

	<u>1984-85</u>
11 <u>Agriculture, Food and Rural Resources,</u> 12 <u>Department of</u>	
13 Bureau of Agricultural Marketing	
14 Potato Price Information Program	
15 Positions	(2)
16 Personal Services	\$49,500
17 All Other	<u>10,500</u>
18 TOTAL	\$60,000

19 These funds shall be
20 appropriated contingent
21 upon a \$10,000 contribution
22 from the Maine Potato
23 Commission and shall be
24 used with that contribution
25 and approximately \$50,000
26 in first handler license fees
27 collected for the 1983-84
28 marketing season to implement
29 the provisions of Public Law
30 1983, chapter 582, as amended
31 by this Act.

1

STATEMENT OF FACT

2 This bill amends the Potato Price Stabilization
3 Program by eliminating provisions for establishing
4 mandatory prices to be paid to first handlers and by
5 eliminating first handler licenses. Instead, the De-
6 partment of Agriculture, Food and Rural Resources
7 will be required to provide daily information on the
8 fair market value of potatoes which first handlers
9 are offering for sale. This information should as-
10 sist first handlers in selling their potatoes so as
11 to receive their fair share of the market price for
12 their product.

13 The bill also creates the position of assistant
14 for potato marketing in order to provide the high
15 level of expertise necessary to accurately report on
16 market conditions. Finally, the bill provides
17 \$60,000 in General Fund appropriations to match ap-
18 proximately \$60,000 in industry funds to operate this
19 program.

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