

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 790

H.P. 586

House of Representatives, March 15, 1989

Reference to the Committee on Agriculture suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative SMITH of Island Falls.

Cosponsored by Senator CLARK of Cumberland, Representative TARDY of Palmyra and Representative ANDERSON of Woodland.

STATE OF MAINE

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

An Act Concerning Potato Varieties.



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

3 **Sec. 1. 7 MRSA §952**, as amended by PL 1985, c. 655, §1, is
5 further amended to read:

7 **§952. Branding**

9 It shall be unlawful for any person, firm, association,
11 organization or corporation, or agent, representative or
13 assistant to any person, firm, association, organization or
15 corporation to expose for sale, or sell, at wholesale or retail,
17 to ship, deliver or consign or have in possession potatoes
19 prepared for market unless in containers which have been legibly
21 and conspicuously tagged, branded, labeled or stenciled with the
23 name and address of the person or persons responsible for packing
25 and the name of the grade, net weight and the word "potatoes." In
27 addition, each container must be stamped or tagged with the words
29 indicating the variety of potato. The lettering of the stamp or
31 on the tag must be of English times bold print with a minimum
33 height of 24 points. All potatoes packed in this State must be
35 packed in containers which conspicuously bear the name of the
37 country where the potatoes were grown. The person or persons
39 responsible for grading shall be as follows: If the violation is
41 discovered in the packing house then the person or persons
43 packing the potatoes shall be responsible; if the violation is
45 discovered at any other place, then the person or persons whose
47 name appears on the container shall be responsible. Each lot of
49 potatoes sold at wholesale shall be accompanied by a bill of
51 lading or invoice stating grade, name and address of packer, name
and address of the consignor, name and address of the consignee,
date of loading and name of loading point. The bill of lading or
invoice shall be prima facie evidence in any court of the person
or persons packing potatoes. It shall be conclusive evidence that
potatoes are exposed for sale when packed in containers for
delivery or transit, or when the same are in the process of
delivery or transit, or are located at a depot, station,
warehouse, packing house, boat dock or any place where potatoes
are held in storage, or loaded on a boat, truck, trailer or
railroad car, for immediate or future sale or transit. For the
purposes of this section only, potatoes located at warehouses, or
packing houses at point of origin, shall not be deemed exposed
for sale until they are loaded or are in the process of being
loaded in vehicles of transportation. When a violation of this
section occurs, it is deemed to have taken place at the loading
point or where such violation first became evident to the
commissioner or his the commissioner's duly authorized
representative. Upon request and submission of proof to the
Department of Agriculture, Food and Rural Resources by a packer
that he the packer has on hand a supply of bags that do not meet
the requirement that the bags conspicuously bear the name of a
country where the potatoes were grown, and those bags were
purchased or contracted for before

1 September 23, 1983, the Commissioner of Agriculture, Food and
2 Rural Resources shall exempt the packer from that requirement
3 until January 1, 1986.
4 The commissioner, at his the commissioner's discretion and upon
5 unusual circumstances, may grant packers extended waivers until
6 January 1, 1987.

7
8 **Sec. 2. 7 MRSA §957, sub-§§1 and 2,** as repealed and replaced by
9 PL 1981, c. 513, §6, are repealed.

11 **Sec. 3. 7 MRSA §957, sub-§§1-A and 1-B,** are enacted to read:

13 1-A. Violation. If the commissioner finds that a person has
14 committed a violation in this article, other than a violation of
15 the requirement in section 952 concerning stamping or tagging the
16 variety of potato on any container, the following penalties apply:

17
18 A. For the first violation, the commissioner shall issue a
19 warning indicating the nature of the violation and may
20 require the person to repack the potatoes in conformance
21 with this subchapter. The commissioner may not impose a
22 civil penalty for the first violation;

23
24 B. For the 2nd violation, a civil penalty of at least \$100,
25 but no more than \$200;

26
27 C. For the 3rd violation, a civil penalty of at least \$400,
28 but no more than \$500; and

29
30 D. For the 4th and subsequent violations committed during
31 the shipping season, a civil penalty of not less than \$1,000
32 and, after notice and opportunity for hearing is provided by
33 the commissioner in a manner consistent with the Maine
34 Administrative Procedure Act, Title 5, chapter 375, for
35 adjudicatory proceedings, the violator may, for the
36 remainder of the period, be subject to mandatory inspection
37 in the manner provided in section 446.

38
39 1-B. Violation by packer. If the commissioner finds that a
40 packer has committed a violation of the requirement in section
41 952 concerning stamping or tagging the variety of potato on any
42 container, the following penalties apply:

43 A. For the first violation, a civil penalty of \$1,000;

44
45 B. For the 2nd violation, a civil penalty of \$5,000; and

46
47
48 C. For the 3rd and subsequent violations committed during
49 the shipping season, a civil penalty of \$10,000 and after
50 notice and opportunity for hearing is provided by the
51 commissioner in a manner consistent with the Maine
52 Administrative Procedure Act, Title 5, chapter 375, for

1 ajudicatory proceedings, the violation may, for the
3 remainder of the period, be subject to mandatory inspection
5 in the manner provided in section 446.

5

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STATEMENT OF FACT

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This bill specifies the branding requirements for potatoes and establishes stronger penalties for violating these requirements.