

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

---

Legislative Document

No. 1624

H.P. 1170

House of Representatives, May 10, 1989

Reference to the Committee on Agriculture suggested and ordered printed.

A handwritten signature in cursive script that reads 'Ed Pert'.

EDWIN H. PERT, Clerk

Presented by Representative TARDY of Palmyra.

Cosponsored by Representative LISNIK of Presque Isle, Representative MAHANY of Easton and Representative BELL of Caribou.

---

STATE OF MAINE

---

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

---

An Act to Amend the Agricultural Marketing and Bargaining Law.

---



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

3 **Sec. 1. 13 MRSA §1956, sub-§2, as repealed and replaced by PL**  
5 **1987, c. 155, §2, is amended to read:**

7 **2. Membership.** The Maine Agricultural Bargaining Board  
9 established by Title 5, section 12004, subsection 3, shall  
11 consist of 5 members and 2 alternates, who shall be appointed by  
13 the Governor. One member and one alternate shall be appointed  
15 from a list of names submitted by agricultural producer  
17 organizations organized under this subchapter and chapter 81.  
19 One member and one alternate shall be appointed from a list of  
21 names submitted by processors of agricultural products. In  
appointing these members and alternates, the Governor shall seek  
to represent as many different agricultural products as possible  
and a member and the alternate for that member shall not be  
associated with the same agricultural product, unless suitable  
persons cannot otherwise be appointed. An alternate shall serve  
when for any reason the respective member is unable to serve.  
Three members shall be representatives of the public, who shall  
not be involved in agriculture.

23 **A.** The term of office for all members and alternates shall  
25 be 3 years. Members selected from lists submitted by  
27 agricultural producer organizations and by processors of  
agricultural products may serve no more than 2 terms in  
succession, not to include the current term of a member  
serving at the time this section becomes effective. The  
limitation to 2 successive terms shall not apply to the  
public members or to alternates.

31 **B.** Board members serving at the time this section becomes  
33 effective shall continue as members for the duration of  
35 their present terms. The Governor shall appoint 2 alternate  
37 members in accordance with this subsection. The initial  
terms of these alternates shall expire at the same time as  
39 that of the current respective members. The Governor shall  
designate one of the public members to be the board's  
41 chairman chair. In the event of a vacancy, the Governor  
shall, within one month, appoint a successor to fill the  
43 unexpired term. All appointments to the board shall be made  
in conformity with the foregoing plan. Members shall take  
the oath of office prescribed for state officers.

45 **Sec. 2. 13 MRSA §1958-B, sub-§4, ¶C is enacted to read:**

47 C. In no case may the contract date for contracts relating  
49 to potatoes be later than March 15th.

**Sec. 3. 13 MRSA §1958-C is enacted to read:**

1  
3 §1958-C. Transfer of seed

5 1. Before agreement reached. Potato seeds shall not be  
7 allocated before the parties reach an agreement under section  
9 1958-B.

11 2. Seed pricing. Potato seed shall be priced in cash, but  
13 if seed is transferred pursuant to a barter system, any holder or  
15 holders of a lien or mortgage shall be notified by the processor  
17 or dealer that the seed is being transferred by barter.

19 3. Failure to notify. Failure to notify any lienholder or  
21 mortgage holder in subsection 2 is a Class E crime.

23 Sec. 4. 13 MRSA §1965, sub-§1, ¶¶G and H, as enacted by PL  
25 1973, c. 621, §1, are amended to read:

27 G. To refuse to bargain with an accredited association with  
29 whom the handler has had prior dealings or with an  
31 accredited association whose producers in the bargaining  
33 units have had substantial dealing with the handler prior to  
35 the accreditation of the association; or

37 H. To negotiate with a producer included in the bargaining  
39 unit after an association is accredited; or

41 Sec. 5. 13 MRSA §1965, sub-§1, ¶I is enacted to read:

43 I. To cause an association to lose any dues or assessments.

45 Sec. 6. 13 MRSA §1965, sub-§§4 and 5, as enacted by PL 1987, c.  
47 155, §24, are amended to read:

49 4. Hearing. Hearings held pursuant to subsection 3 shall  
51 be held in a manner consistent with the Maine Administrative  
53 Procedure Act, Title 5, chapter 375, as to adjudicatory  
hearings. The board shall request that the Attorney General or  
any attorney in his--department- the Department of the Attorney  
General designated by the Attorney General, be present at these  
hearings and shall advise the board on procedure and on the  
admissibility of any evidence. There shall be a complete and  
accurate written record of any hearing.

55 5. Findings. If, upon a preponderance of the evidence, the  
57 board determines that the person complained of has committed an  
59 unfair practice, in violation of this article, it shall state its  
61 findings of fact and shall issue an order requiring the person to  
63 cease and desist from such conduct and shall order such further  
affirmative action, excluding an award of damages, as will  
effectuate the policies of this article. Failure to comply with  
such an order is a violation of this article. If the board  
determines that the person complained of has not committed an  
unfair practice, it shall state its findings of fact and shall

1 issue an order dismissing the charges. The prevailing party may  
2 be awarded reasonable costs and attorney's fees.

3  
4 **Sec. 7. 13 MRSA §1966 is enacted to read:**

5 **§1966. Potato marketing requirements**

6  
7 **1. Weight basis for sale of potatoes.** Every contract  
8 between a processor and a producer shall provide for the purchase  
9 and sale of potatoes on a 100-pound basis only.

10  
11 **2. Combination sale.** No person may sell, offer to sell or  
12 buy potatoes in combination with any other commodity at a  
13 combined price or at prices not applicable to the purchase price  
14 of the commodities individually.

15  
16 **3. Conditional sale prohibited.** No person may sell, offer  
17 to sell or buy any potatoes either contemporaneously with or  
18 conditionally upon a gift or sale of any other thing of value.

19  
20 **4. Required purchase.** No processor may require any grower  
21 to purchase seed, fertilizer or any other item pursuant to  
22 growing potatoes from the processor or any agent, servant or  
23 employee of the processor.

24  
25  
26 **STATEMENT OF FACT**

27  
28  
29 This bill amends the agricultural marketing and bargaining  
30 laws, particularly regarding the sale of potatoes. The bill  
31 establishes potato marketing requirements. In addition, the bill  
32 requires that there be a written record of any hearing,  
33 establishes a contract deadline of March 15th and limits the  
34 public members of the Maine Agricultural Bargaining Board to  
35 people uninvolved in agriculture.  
36  
37