

MAINE STATE LEGISLATURE

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AGRICULTURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1273, L.D. 1717, Bill, "An Act Regarding the Inspection of Maine Potatoes"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Laws Relating to Potatoes'

Further amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation amends laws to improve the potato industry, an important agricultural industry in the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 7 MRSA §956, 2nd ¶, as enacted by PL 1985, c. 655, §2, is amended to read:

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R.O.S.

2 Any person who refuses or interferes with access by the
3 commissioner or his the commissioner's representative as provided
4 for in this section, following oral request and warning given by
5 the commissioner or his the commissioner's representative
6 regarding the contents of this section, ~~shall be~~ is guilty of a
7 separate civil violation under section 957, ~~provided that oral~~
8 ~~request and warning by the commissioner or his representative~~
9 ~~shall substitute for a first violation warning under section 957,~~
10 ~~subsection 1, and any continued refusal or interference shall be~~
11 ~~subject to the civil penalties as provided in section 957,~~
12 ~~subsection 2.~~

13 **Sec. 2. 7 MRSA §957, sub-§1,** as repealed and replaced by PL
14 1981, c. 513, §6, is repealed.

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

16 1-A. Penalty. The following civil penalties apply:

17 A. For the first violation committed during a shipping
18 season, a forfeiture of not more than \$200;

19 B. For the 2nd violation committed during a shipping
20 season, a forfeiture of \$1,000; and

21 C. For the 3rd and subsequent violations committed during a
22 shipping season, a forfeiture of not less than \$1,500.

23 1-B. Mandatory inspection. After notice and an opportunity
24 for hearing in an adjudicatory proceeding in accordance with the
25 Maine Administrative Procedure Act, the commissioner may order a
26 person the commissioner finds has violated this chapter 3 or more
27 times in a shipping season to undergo mandatory inspection in the
28 manner provided in section 446 for a period of one year from the
29 date of the final administrative determination. If the
30 inspection order is stayed during appeal of the administrative
31 determination, the period of the stay is not counted in
32 calculating the one-year period. A person subject to mandatory
33 inspection under this subsection may not ship potatoes packed in
34 consumer packs unless the packs are accompanied by an
35 unrestricted, original certificate of inspection covering the
36 entire manifest, or an original or a copy of a certificate of
37 inspection positively identifying the actual bags or containers
38 in the shipment. Shipment of potatoes without the certificate
39 required by this subsection is a separate violation subject to
40 the penalties provided by this section.

41 **Sec. 4. 7 MRSA §957, sub-§2,** as repealed and replaced by PL
42 1981, c. 513, §6, is repealed.

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COMMITTEE AMENDMENT "A" to H.P. 1273, L.D. 1717

2 Sec. 5. 7 MRSA §973, first ¶, as repealed and replaced by PL
1989, c. 502, Pt. B, §3, is amended to read:

4 There is created a fund to-be known as the Potato Marketing
6 Improvement Fund, ~~to which shall be credited all.~~ All funds
8 received by the commissioner from any source for the development
10 and implementation of an improved storage, packing and marketing
12 program must be credited to the fund. Any money credited to the
14 Potato Marketing Improvement Fund from the issuance of bonds on
16 behalf of the State for agricultural development shall may be
18 used only for the purposes of state loans as prescribed by
20 section 974-A, to provide assistance to farmers for the design,
22 construction, improvement, support and operation of storage,
24 packing and marketing facilities and to pay the administrative
26 costs of processing loan applications, to the extent that the
28 costs exceed the fee for administrative costs established by
30 section 974-A, subsection 2. Repayment of these loans and
32 interest ~~thereon~~ shall on the loans must be credited to the
34 Potato Marketing Improvement Fund to be available for making
additional state loans for the same purposes, except that any
interest earned on the cash balance of the fund may be used for
the grants authorized by section 975 975-A. In order to provide
additional amounts for loans, the commissioner, at the
commissioner's discretion, may take such actions and enter into
such agreements as may be necessary to sell or assign up to
\$2,000,000 in the aggregate principal amount of loans and
undivided interests in a pool of loans and assign or pledge any
mortgage or other security to the Finance Authority of Maine,
under terms and conditions the commissioner considers advisable.
The assignment and related transactions may not result in
indebtedness of the State. The proceeds of the sale or
assignment must be credited to the Potato Marketing Improvement
Fund and used for the purposes authorized in this section.

36 Sec. 6. 7 MRSA §1036, sub-§3, as repealed and replaced by PL
1987, c. 754, §5, is amended to read:

38 3. **Penalty.** Any person who violates subsection 1 or 2-A is
40 subject to section 957 and any person who violates subsection 2
is subject to the following civil penalties and administrative
42 action:

44 A. For the first violation, a forfeiture of \$500;

46 B. For the 2nd violation, a forfeiture of \$1,000; and

48 C. For the 3rd and subsequent violations, no less than
50 \$1,000 \$1,500. ~~After notice and opportunity for hearing are
provided by the commissioner in a manner consistent with the
Maine Administrative Procedure Act, Title 5, chapter 375,~~

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~~for adjudicatory proceedings, the violator shall, for a period of one year from the date of the violation, be subject to mandatory inspection in the manner provided in section 446.~~

After notice and an opportunity for hearing in an adjudicatory proceeding in accordance with the Maine Administrative Procedure Act, the commissioner may order a person the commissioner finds has violated subsection 2 3 or more times in a shipping season to undergo mandatory inspection in the manner provided in section 446 for a period of one year from the date of the final administrative determination. If the inspection order is stayed during appeal of the administrative determination, the period of the stay is not counted in calculating the one-year period. A person subject to mandatory inspection under this subsection may not ship potatoes packed in consumer packs unless the packs are accompanied by an unrestricted, original certificate of inspection covering the entire manifest, or an original or a copy of a certificate of inspection positively identifying the actual bags or containers in the shipment. Shipment of potatoes without the certificate required by this subsection is a separate violation subject to the penalties provided by this subsection.

Sec. 7. Exploration of special utility rate for off-grade potato processors. The Public Utilities Commission, any electric utility providing service to Aroostook County and the Department of Agriculture, Food and Rural Resources shall explore the development of a special rate for electricity used by any processor in Aroostook County exclusively for the processing of off-grade potatoes. Any special rate proposal developed under this section may not require an electric utility to offer that rate to a customer engaged in the processing of off-grade potatoes under the utility's standard rate schedule. For purposes of this section, "off-grade potatoes" means those potatoes that fail to meet minimum grade requirements as established by the United States Department of Agriculture for U.S. #2 processing rate potatoes.

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

	1994-95
PUBLIC SAFETY, DEPARTMENT OF	
State Police	
All Other	\$5,000

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COMMITTEE AMENDMENT "A" to H.P. 1273, L.D. 1717

Provides funds for enforcement of the potato branding laws.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

1994-95

APPROPRIATIONS/ALLOCATIONS

General Fund \$5,000

This bill includes a General Fund appropriation of \$5,000 in fiscal year 1994-95 for the Department of Public Safety to provide funds to the State Police for the enforcement of potato branding laws.

The authorization for the Potato Marketing Improvement Fund, as administered by the Department of Agriculture, Food and Rural Resources, to sell up to \$2,000,000 of its existing loans to the Finance Authority of Maine is likely to result in additional funds received by the department from the sale of these loans. As authorized by this bill, any funds received from the sale of the loans may be used to make new loans. The amounts can not be determined at this time.

The collection of additional fines may increase General Fund revenue by minor amounts.

The Public Utilities Commission and the Department of Agriculture, Food and Rural Resources will incur some minor additional costs to explore the development of a special rate for electricity used by certain potato processors. These costs can be absorbed within the agencies' existing budgeted resources.

STATEMENT OF FACT

This amendment replaces the bill. It increases the fines for violation of the potato branding laws and subjects a person with 3 or more violations in a shipping season to mandatory inspections for a period of one year.

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 1273, L.D. 1717

2 The amendment authorizes the Potato Marketing Improvement
4 Fund to sell or assign up to \$2,000,000 of its loans to the
6 Finance Authority of Maine in return for funds to be used to make
8 new loans. The amendment also requires the Public Utilities
Commission, the Department of Agriculture, Food and Rural
Resources and the electric utilities in Aroostook County to
explore development of a special utility rate for new processors
of off-grade potatoes.

10 Finally, the amendment appropriates funds for the State
12 Police to enforce the potato branding laws and adds a fiscal note.