

# MAINE STATE LEGISLATURE

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L.D. 1992

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Date: 3-3-08

(Filing No. S- 442)

**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE  
SENATE  
123RD LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 786, L.D. 1992, Bill, "An Act To Amend the Laws Governing Agricultural Marketing and Bargaining"

Amend the bill by striking out all of sections 1 and 2 and inserting the following:

'Sec. 1. 7 MRSA §1017, sub-§4, as amended by PL 2005, c. 333, §3, is further amended to read:

**4. Notification of insufficient or no payment.** Producers may notify the Department of Agriculture, Food and Rural Resources of insufficient or no payment for potatoes or rotation crops after acceptance by any processor, dealer, broker, agent or retailer in the State in violation of subsection 1, paragraph B.

A. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's agent, upon notification by producers of insufficient or no payment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings, hold a hearing, unless such hearing is waived by the processor, dealer, broker, agent or retailer against whom the charge has been made. The processor, dealer, broker, agent or retailer accused of nonpayment shall provide the commissioner with a copy of the contract, if any, and all other materials and information to enable the commissioner to carry out the provisions of this section. Upon finding after investigation that the processor, dealer, broker, agent or retailer has violated the contract, express or implied, the commissioner may recover the proceeds of the bond required by section 1015 and apply those proceeds against the amounts owed producers. In the event the bond proceeds are inadequate to cover the debts owed producers, the commissioner shall require the processor, dealer, broker, agent or retailer to post an additional bond sufficient to cover the remaining debt owed to the producer or producers.

(1) The commissioner, after determination upon a hearing of insufficient payment or nonpayment of debts owed to a producer, may require the licensee; ~~who has been accused or found guilty after a hearing of insufficient payment or~~

**COMMITTEE AMENDMENT**

COMMITTEE AMENDMENT "A" to S.P. 786, L.D. 1992

1 ~~nonpayment of debts owed a producer~~, to formulate a schedule of payments to  
2 the producer that is satisfactory to the commissioner. The schedule of payments  
3 may not exceed a 30-day period.

4 (2) The licensee ~~accused of or found by~~, who after a hearing is determined to be  
5 in default of payment to a producer, shall submit a payment schedule to the  
6 commissioner within one week from the commissioner's request for a payment  
7 schedule. In the event that the schedule of payment is not satisfactory to the  
8 commissioner, the commissioner shall establish the schedule of payment not to  
9 exceed a 30-day period.

10 (3) The commissioner shall file a complaint with the District Court seeking to  
11 suspend the license of any licensee who fails to conform to the payment schedule  
12 established in this section until the producer is paid the total claim to which the  
13 producer is entitled.

14 (4) Upon the filing of a complaint by the commissioner in the District Court, the  
15 licensee shall post a bond sufficient to cover the total claim owed the producer on  
16 the date on which the complaint is filed. The bond required for an appeal  
17 procedure may be waived by the District Court in the event that the bond required  
18 in paragraph A is valid and sufficient to cover the total claim owed the producer.

19 (5) Nothing in this section may be construed to prohibit a producer from seeking  
20 redress for insufficient payment or nonpayment from licensees in any court or in  
21 accordance with any federal procedure established to obtain redress.'

22 Amend the bill in section 3 in subsection 3 by striking out all of the blocked  
23 paragraph (page 1, lines 31 to 33 in L.D.) and inserting the following:

24 'In the case of potatoes, "handler" means a processor as defined under Title 7, section  
25 1012, subsection 14 or a person or company acting as an agent, broker or dealer as  
26 defined under Title 7, section 1012, subsections 1, 3 and 5, respectively, for a processor  
27 located or licensed in the State and providing more than 100,000 hundredweight of  
28 potatoes annually to any one processor.'

29 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
30 section number to read consecutively.

31 **SUMMARY**

32 This amendment removes the sections of the bill that proposed amending definitions  
33 under the licensing laws for the marketing of potatoes.

34 It amends the provision by which the Department of Agriculture, Food and Rural  
35 Resources responds to notices that producers have not been sufficiently paid by  
36 processors to include insufficient payment by dealers, brokers, agents or retailers. It  
37 clarifies that a determination of insufficient payment is made at a hearing.

38 It amends the definition of "handler" under the Maine Agricultural Marketing and  
39 Bargaining Act of 1973 as it applies to potatoes to include a processor or a person or

COMMITTEE AMENDMENT "A" to S.P. 786, L.D. 1992

1 company acting as an agent, broker or dealer for a processor that provides more than  
2 100,000 hundredweight of potatoes annually to a processor.

3 **FISCAL NOTE REQUIRED**  
4 **(See attached)**



# 123rd MAINE LEGISLATURE

LD 1992

LR 2832(02)

## An Act To Amend the Laws Governing Agricultural Marketing and Bargaining

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

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### Fiscal Note

Minor cost increase - General Fund

#### Fiscal Detail and Notes

Additional costs to the Department of Agriculture, Food and Rural Resources associated with potential rule making can be absorbed within existing budgeted resources.