

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 83**

S. P. 77

In Senate, Jan. 25, 1933.

Referred to Committee on Agriculture and 500 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Story of Aroostook.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED  
AND THIRTY-THREE

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AN ACT to Assure Proper Branding of Potatoes.

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

Section 1. **Grades.** The grades for potatoes recommended by the bureau of agricultural economics of the United States department of agriculture and recognized in the central markets of the country as government grades and such other grades as may be promulgated by the state commissioner of agriculture of Maine under the provisions of sections 49-55 inclusive of chapter 41 of the revised statutes are hereby made the official state grades for potatoes of the state presented for intrastate or interstate shipment and all containers so presented for shipment, whether by truck, train, boat or other conveyance, shall have written or stamped thereon the name and address of the person producing or marketing the product, as well as the name and grade of the product contained therein.

Sec. 2. **Branding.** No person, firm, association, organization or corporation or agent, representative or assistant to any person, firm, association, organization or corporation, shall expose for sale, or sell, transport, deliver or consign, or have in possession potatoes prepared for market unless such container has been legibly and conspicuously branded, labeled or stenciled before being removed from the premises where prepared for market with the name and address of the person or persons responsible for the

grading and packing, and the name of the grade, together with true net contents. Bulk shipments shall be accompanied by two cards not less than four by six inches in size, placed on the inside of car near each door. No bulk shipments will be permitted after September 10 of each year. Likewise cards in size as herein described shall be prominently displayed on all bulk shipments made by truck or other conveyance. Upon each card shall appear the name and address of the consignor, the name of the grade, the name of the leading station, the date of loading, and the name and address of the consignee, if known. It shall be conclusive evidence and the potatoes deemed to be for sale, when containers are packed for delivery or transit, or when same are exposed for sale or when the same are in the process of delivery or transit or are located at a depot, station, boat dock, or any place where potatoes are held in storage, or for immediate or future sale or transit.

Sec. 3. **Culls Defined.** "Culls" shall consist of all potatoes not meeting the requirements of U. S. Fancy, U. S. Number 1 or U. S. Number 2 grades or a combination of these grades, or such other grades as may be promulgated by the commissioner of agriculture of the state under the provisions of sections 49-55 inclusive, of chapter 41 of the revised statutes. When potatoes of this grade are marketed they shall be packed in containers not exceeding 25 pounds in weight, such containers shall be printed in a plain and legible manner in black, blue, red or green, with the words "**cull potatoes**" in 2 inch block type letters on one side of the container, and in smaller letters not less than  $\frac{3}{4}$ " block type the name and address of the shipper, and the net weight. No other marking shall be permitted. Cull potatoes must be retailed in the original container.

Sec. 4. **Misbranding.** No person shall sell, expose for sale or transport for sale potatoes in open or closed packages if the packages containing them or the label on them shall bear any statement, design or device regarding such potatoes which shall be false or misleading in any particular, or if such potatoes are packed in such a manner that the face or shown surface shall not be an average of the contents of the package. This provision shall be construed to also prohibit the repeated use of any container or sub-container for potatoes bearing any markings required by this act or any designation of brands, quality or grade unless all such markings which do not properly and accurately apply to the potatoes repacked or replaced shall first be completely removed, erased, or obliterated. Nothing in this act shall be construed to conflict with any state or federal law or regulations regarding net weight markings on containers or sub-containers.

Sec. 5. **Exemptions.** No provision of this act shall be construed to prevent a grower of potatoes in this state from selling or delivering the same unpacked or unmarked, or selling his crop in bulk, or any part thereof, or to a packer for grading, packing or storage within the state. Nor shall any provision of this act prevent a grower or packer except as hereinafter provided from manufacturing the same into any by-product, or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-products factory for the sole and express purpose of being used in the state in the manufacture of a by-product for re-sale, provided such packer or receiver shall comply with the foregoing sections. Nor shall any provision of this act be construed to apply to any lot, portion or shipment of potatoes graded, packed, tagged and prepared for shipment or shipped as "certified seed" as provided for in sections 4 to 8 inclusive of chapter 41 of the revised statutes.

Sec. 6. **Licenses.** No person, firm, corporation or other organization, except as provided in the preceding section, shall ship any potatoes in carload lots or mixed carload lots or by truck or other conveyance without having first having obtained a license from the commissioner of agriculture of the state. The fee for such license shall be \$10 per year. When licensees shipments are not more than 50 carlots annually; \$15 when shipments are not less than 51 or more than 100 carlots; \$20 when shipments are not less than 101 or more than 200 carlots; \$25 when shipments are not less than 201 or more than 500 carlots and \$50 when shipments are in excess of 500 carlots. Such license may be revoked by the commissioner for violation of the provisions of this act.

Sec. 7. **Commissioner of agriculture to enforce.** The commissioner shall diligently enforce all of the provisions of this act. He, either in person or by a duly authorized representative, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein potatoes are packed, stored, transported, sold, offered or exposed for sale or for transportation. He may also, in person or by duly authorized representative, open any sack, box, barrel or other container and may, upon tendering market price, take samples therefrom. He may recover penalties imposed for violation of this act in an action of debt brought in his own name and if he prevails in such action shall recover full costs; or he may prosecute for violations hereof by complaint or indictment. Municipal courts and trial justices shall have original jurisdiction concurrent with the superior court of actions brought for the recovery of penalties imposed by this act and of prosecutions for violations hereof. All fees received under this act by the commissioner and all money and fines received by

him under this act shall be paid by him to the treasurer of state and the same is hereby appropriated for carrying out the provisions of this act.

Sec. 8. **Penalty.** Any person, firm or corporation who shall violate any of the provisions of this act or neglect or refuse to comply with any of the provisions required herein or in any way violate any of its provisions shall be punished by a fine of not more than \$100 for the first offense and by a fine of not more than \$200 for each subsequent offense.

Sec. 9. **Validity of act.** If any section, subsection, sentence, clause, or phrase of this act is for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.