

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 28

H. P. 98

House of Representatives, January 15, 1935.

Referred to Committee on Agriculture and 1,000 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Findlen of Fort Fairfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT to Assure Proper Branding of Potatoes.

Emergency preamble. Whereas, the over production of potatoes in the United States has created a surplus and,

Whereas, the returns to producers are so far below the costs of production as to cause dire distress and suffering, and

Whereas, the usual methods of marketing and branding are inadequate to meet the emergency that exists, and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of Article XXXI 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. Grades established. 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 to 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 as presented for shipment, whether by truck, train or boat, shall have written, stamped or attached thereon the name and address or serial number of the person producing or marketing the product, as well as the name and grade of the product contained therein.

Sec. 2. Branding made mandatory. It shall be unlawful for any person, firm, association, organization or corporation or agent, representative or assistant to any person, firm, association, organization or corporation, to 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 tagged, 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. When tags are used U. S. No. 1 grade shall be declared on a white tag, U. S. commercial on a yellow tag, and U. S. No. 2 on a red tag. Bulk shipments shall be accompanied by 2 cards not less than 4 by 6 inches in size, placed on the inside of car near each door. 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 loading 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. False or misleading branding prohibited. 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, 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 Maine or federal law or regulations regarding net weight markings on containers or sub-containers.

Sec. 4. Sale without grading by grower permitted. No provision of this act shall be construed to prevent a grower of potatoes within 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 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 within the state in the manufacture of a by-product for resale.

Sec. 5. Commissioner of agriculture to enforce law. The commissioner of agriculture 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 during business 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 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 are hereby appropriated for carrying out the provisions of this act. The commissioner of agriculture shall establish such rules and regulations as may be needed for the proper enforcement of this act.

Sec. 6. Appropriations. The sum of \$10,000 is hereby annually appropriated for carrying out the purposes of this act.

Sec. 7. Exemptions. Certified seed potatoes as defined by sections 4 to 8 inclusive of chapter 41 of the revised statutes are hereby exempted from the provisions of this act, or potatoes sorted from such certified seed.

Sec. 8. Penalty of violation. 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. Constitutionality. 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.

Emergency clause. In view of the emergency cited in the preamble hereof, this act shall take effect when approved.