

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

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1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

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rector of Corrections when the recommendations of the physician or medical staff member regarding any person's dietary or other health needs while in such confinement are not carried out.

Sec. 4. 34 MRSA § 709, as last repealed and replaced by PL 1971, c. 397, § 5, is repealed.

Effective October 1, 1975

CHAPTER 554

AN ACT Concerning the Potato Tax and the Maine Potato Commission.

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

Sec. 1. 36 MRSA § 4562, as last repealed and replaced by PL 1971, c. 428, § 1, is repealed and the following enacted in place thereof:

§ 4562. Definitions

The terms used in this chapter shall be construed as follows:

1. Commission. "Commission shall mean the Maine Potato Commission.
2. District. "District" means each one of the geographical divisions of Maine as follows:
 - A. District 1: Benedicta, Island Falls, Oakfield, Patten, Sherman Mills, Sherman Station, Smyrna Mills, Stacyville, Hodgdon, Houlton, Linneus, Ludlow, New Limerick, North Amity, Bridgewater, Littleton, Monticello;
 - B. District 2: Blaine, Mars Hill, Robinson, Westfield, Easton, East Chapman, Presque Isle, Castle Hill, Mapleton, West Chapman, Ashland, Garfield, Masardis, Portage;
 - C. District 3: Fort Fairfield, Caswell, Limestone, Caribou, Connor;
 - D. District 4: Crouseville, Perham, Wade, Washburn, Woodland, New Sweden, Stockholm, Westmanland, Cyr, Hamlin, Keegan, Van Buren, Frenchville, Grand Isle, Lille, Madawaska, Saint Agatha, St. David, Upper Frenchville, Eagle Lake, Fort Kent, Fort Kent Mills, St. Francis, St. John, Soldier Pond, TR 17, Wallagrass, Winterville;
 - E. District 5: All the remaining counties, towns and townships in the State not included in Districts 1, 2, 3 and 4.
3. Fiscal year. "Fiscal year" means the 12-month period beginning September 1st and ending August 31st.
4. Potatoes. "Potatoes" shall mean and include all potatoes, whether graded or ungraded, including all potatoes sold for processing into food; but

shall not include potatoes sold for processing into starch unless such potatoes are sold under a federal diversion program and paid for as grade potatoes.

5. Processor. "Processor" means any person, firm or corporation in Maine engaged in processing potatoes into food or starch.

6. Shipment. "Shipment" shall be deemed to take place when the potatoes are located within the State in the car, boat, truck or other conveyance in which the potatoes are to be transported.

7. Shipper. "Shipper," for the purposes of this chapter, shall mean any person, partnership, association, firm or corporation engaged in the business of any of the following:

A. Agent or broker, by selling or distributing potatoes in commerce for or on behalf of growers or others, or by negotiating sales of potatoes in commerce for or on behalf of the seller or the purchaser, respectively;

B. Dealer, by purchasing potatoes in commerce for resale to other than directly to consumers;

C. Processor, as defined in subsection 5;

D. Grower, only when selling potatoes to anyone other than the parties set forth in paragraphs A, B or C.

Sec. 2. 36 MRSA § 4563, sub-§ 1, as last repealed and replaced by PL 1971, c. 428, § 1, is repealed and the following enacted in place thereof:

1. Membership. The Maine Potato Commission shall consist of 7 members of whom 5 shall be growers, one shall be a processor and one shall be a shipper, appointed by the Commissioner of Agriculture in the following manner.

A. Growers. The commissioner shall, prior to September 1st of any year in which a grower member or members are to be appointed and on recommendation of the various grower associations, individuals or unorganized groups of growers in the affected districts, appoint one grower member for each of the appropriate districts.

B. Processors. The commissioner shall, prior to September 1st of any year in which a processor member is to be appointed and after consulting with the various processor associations, individuals or unorganized groups of processors in the State, appoint one processor member of the commission.

C. Shippers. The commissioner shall, prior to September 1st of any year in which a shipper member is to be appointed and on recommendation of the various shipper associations, individuals or unorganized groups of shippers in the State, appoint one shipper member of the commission.

Sec. 3. 36 MRSA § 4563, sub-§ 3, as last amended by PL 1971, c. 622, § 128, is repealed and the following enacted in place thereof:

3. Term. Each member appointed under this chapter shall take office on September 1st of the year appointed and shall serve for a term of 3 years or

until a successor is duly appointed and qualified. No member is eligible for reappointment to the commission for a period of one year from the date of expiration of the 2nd of 2 consecutive 3-year terms. To fill any vacancy, however caused, the commissioner shall appoint a successor for the unexpired term, which successor shall be appointed from the same district or industry segment as was represented by the predecessor member.

Sec. 4. 36 MRSA § 4563-A is enacted to read:

§ 4563-A. Powers and duties

The powers and duties of the Maine Potato Commission, subject to Title 5, chapters 7 and 143 and Title 7, chapter 1, shall include the following:

1. Rules and regulations. To adopt and promulgate rules and regulations for the operation of the commission;

2. To contract and to be contracted with. To make contracts or enter into contracts with any local, state, federal or private agency, department, firm, corporation or association for the purpose of the following:

A. Research in connection with the production, processing, manufacture and marketing of potatoes and potato products; and

B. Advertising to promote Maine potatoes and potato products;

3. Advertising and promotion of grades of potatoes. To advertise and promote, after public hearing and in conformance with Title 7, sections 950 to 957, grades of potatoes as defined by the Department of Agriculture, and to designate labels or other distinctive marks which may appear on packages of Maine potatoes in order to secure the greatest returns to producers and to meet the requirements of its advertising and promotion campaigns;

4. Books and records. To keep books, records and accounts of all its activities, which shall be open to inspection and audit by the State at all times. The State Department of Audit shall conduct an annual audit at the expense of said commission and shall report the results of its audit to the Legislature, State Treasurer and to the commission;

5. Facilities, equipment and supplies. To lease, purchase or own the facilities, equipment and supplies it deems necessary to carry out the purposes of this chapter; and

6. Outside funding. To accept grants, donations and gifts of funds to be expended for purposes defined in this chapter.

Sec. 5. 36 MRSA § 4565, as last repealed and replaced by PL 1971, c. 428, § 2, is repealed and the following enacted in place thereof:

§ 4565. Rate of tax

A tax is levied and imposed at the rate of \$.025 per hundredweight on all potatoes raised in this State prior to July 1, 1978, and at the rate of \$.012 per hundredweight on all potatoes raised in this State after July 1, 1978, except

that no tax shall be imposed on any potatoes which are retained by the grower to be used by him for seed purposes or for home consumption.

Sec. 6. 36 MRSA § 4568, as last repealed and replaced by PL 1971, c. 428, § 3, is repealed and the following enacted in place thereof:

§ 4568. Tax deducted from selling price

Each shipper purchasing, shipping, receiving, processing, handling or selling potatoes grown by another and paying, or becoming liable to pay, the tax imposed by section 4565 shall charge and collect from the person from whom the potatoes were acquired an amount equal to $\frac{1}{2}$ the rate of tax imposed by section 4565 to be deducted from the purchase price of all potatoes subject to the tax so purchased, shipped, received, processed, handled or sold by such shipper.

Sec. 6-A. 36 MRSA § 4569, 2nd sentence, as repealed and replaced by PL 1971, c. 428, § 4, is amended to read:

At the time of filing said report, each shipper shall pay to the State Tax Assessor a tax at the rate of ~~\$.012~~ \$.025 per hundredweight upon all potatoes so reported as purchased, sold or shipped.

Sec. 7. 36 MRSA § 4571, as last amended by PL 1971, c. 584, § 1, is repealed and the following enacted in place thereof:

§ 4571. Appropriation of moneys received

Money received through this chapter by the State Treasurer shall be appropriated and used by said commission for the following purposes:

1. Collection and enforcement. For the collection of the tax provided for by section 4565 and the enforcement of this chapter;

2. Better methods. A sum which shall equal at least \$50,000 shall be used and applied for the purpose of investigating and determining better methods of production, shipment and merchandising of potatoes and for the manufacture and merchandising of potato by-products;

3. Advertising. For the general purpose of merchandising and advertising Maine potatoes for food and for seed purposes;

4. Administration. For expenses in connection with administering this chapter, including employment of necessary staff and contracting for the performance of required services; participation jointly with any organization of growers, shippers and processors in this State in financing such projects, programs and activities as are complementary to the purposes of this chapter; provided that the annual sum appropriated and expended pursuant to this subsection shall not exceed an amount equal to 20% of the total moneys received in any given year; and

5. Balance of funds. The funds remaining over and above the expenses of carrying out this chapter, including the expenditures authorized under subsections 1, 2, 3 and 4, shall not lapse, but shall be carried in a continuous carrying account to be expended for the purposes of this chapter.

Sec. 8. Applicability. Nothing in this Act shall affect the length of term to which any member of the Maine Potato Commission has been appointed before the effective date of this Act, nor the validity of the appointment. However, upon expiration of the term of any member serving on the commission on the effective date of this Act, that vacancy shall be filled by appointment or reappointment for a term of 3 years and the person so appointed or reappointed shall be subject to all provisions of this Act.

Effective October 1, 1975

CHAPTER 555

AN ACT Making Potato Processors Subject to Certain Provisions of the Licensing and Bonding Statutes for the Bonding of Potatoes.

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

Sec. 1. 7 MRSA § 1012, sub-§ 13, last sentence, as enacted by PL 1971, c. 600, § 4, is repealed as follows:

~~Potatoes purchased from licensees under this Article shall not be included in computing the aforesaid aggregate quantities.~~

Sec. 2. 7 MRSA § 1014, as last amended by PL 1971, c. 600, § 5, is further amended to read:

§ 1014. Licensing; agents

No person shall act as a dealer, processor, broker, agent or retailer unless duly licensed as provided in this Article. Every person, before acting as a dealer, processor, broker, agent or retailer, shall file an application with the commissioner for a license to transact the business of a dealer, processor, broker, agent or retailer and such application shall be accompanied by the license fee provided in this Article.

No person shall buy, solicit or negotiate the sale of any potatoes in this State as a representative of any dealer, processor, broker or retailer, unless such representative has been so authorized by a duly licensed dealer, processor, broker or retailer in writing, and a copy of such authorization is filed with the commissioner, except where such representative conducts business in the office of said dealer, processor, broker or retailer. The commissioner shall be notified in writing by said dealer, processor, broker or retailer immediately upon the termination of such authorization.

Sec. 3. 7 MRSA § 1016, first sentence, as enacted by PL 1971, c. 366, is amended to read:

The commissioner or his duly authorized agent shall have full authority to investigate upon the verified complaint of any interested person, or on his own motion, the conduct and activities of any person applying for or holding a license as dealer, processor, broker, agent or retailer and for such purpose may examine the books and papers of any such person and may take testimony and affidavits thereon under oath.