

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

**PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
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PUBLIC LAWS
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These agreements shall be developed in addition to those developed and registered under subchapter I and shall be maintained exclusively for the purposes described in this section.

§ 1011. Affirmative action

1. Age. Any person whose age exceeds the maximum age for admission to a program registered under this subchapter, but who is otherwise eligible for the program, shall be admitted where that action assists in achieving the purposes of this subchapter.

2. Sex. Programs under this subchapter shall be subject to the same affirmative action as is required by law for all apprenticeships developed by the State Apprenticeship and Training Council.

§ 1012. Coordination

The State Apprenticeship and Training Council shall establish procedures for the coordination of programs developed under this subchapter with the Maine Aid to Families with Dependent Children Coordinating Committee established in Title 22, section 3773.

Sec. 19. Report to Legislature. The Maine Aid to Families with Dependent Children Coordinating Committee, established in Title 22, section 3773, shall review and evaluate the impact and effect of Title 22, chapter 1054, and report its findings and recommendations to the First Regular Session of the 112th Legislature.

Sec. 20. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82	1982-83
MANPOWER AFFAIRS, DEPARTMENT OF		
Bureau of Labor		
Positions	(3)	(3)
Personal Services	\$31,415	\$41,887
All Other	14,685	19,580
Total	\$46,100	\$61,467

Effective September 18, 1981

CHAPTER 513
H. P. 1486 — L. D. 1613

AN ACT to Promote the Maine Potato Industry by Improving the Quality of Packing and Marketing Maine Potatoes.

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

Sec. 1. 7 MRSA § 13, as amended by PL 1973, c. 598, § 4, is further amended by adding at the end a new paragraph to read:

For the purposes of chapter 103, subchapter X, notwithstanding the provisions of the District Court Civil Rules, Rule 80E, paragraph (b), the commissioner may obtain an administrative inspection warrant upon demonstrating the statutory or other authority pursuant to which he is authorized to conduct inspections, the premises to be inspected, the purpose of the inspection and that the inspection sought is reasonable and represents a minimal intrusion in furtherance of a legitimate governmental obligation of the department. This demonstration shall be deemed to be a demonstration of probable cause.

Sec. 2. 7 MRSA § 950, sub-§§ 2 and 3 are enacted to read:

2. Consumer pack. “Consumer pack” means a unit of 50 pounds or less net weight of potatoes contained in a bag, crate or any other type of container.

3. Shipping season. “Shipping season” means the period after August 1st of each year and before July 31st of the following year.

Sec. 3. 7 MRSA § 951-B is enacted to read:

§ 951-B. Compliance with official standards

To achieve compliance with official standards, the commissioner may adopt, consistent with this Article and with section 402, a fee schedule for inspection of potatoes. The potato inspection fee schedule may provide for a lower inspection rate for any person who is packing potatoes in a Maine bag as defined by section 1032, subsection 4.

Sec. 4. 7 MRSA § 952, 2nd sentence, as repealed and replaced by PL 1965, c. 219, § 3, is repealed and the following enacted in its place:

The person or persons responsible for grading shall be as follows: If the violation is discovered in the packing house then the person or persons packing the potatoes shall be responsible; if the violation is discovered at any other place, then the person or persons whose name appears on the container shall be responsible.

Sec. 5. 7 MRSA § 953, first sentence, as amended by PL 1979, c. 541, Pt. A, § 60, is further amended to read:

It Notwithstanding section 952, it shall be unlawful for any person, firm, association, organization or corporation to expose for sale or sell at full sale or retail, to ship, deliver or consign, or have in possession potatoes prepared for market in containers which bear any statements, design or device regarding such potatoes which shall be false or misleading, in any particular, or potatoes packed in such manner that the face or shown surface is not an average of the contents of

the package, or potatoes that fail to meet the grade requirements established and promulgated by the commissioner or potatoes that are accompanied by a bill of lading false or misleading in any particular.

Sec. 6. 7 MRSA § 957, as amended by PL 1979, c. 454, and c. 532, § 2, is repealed and the following enacted in its place:

§ 957. Violations

Any person, firm or corporation who violates any of the provisions of sections 952 to 957 or to Article 4 or neglects or refuses to comply with any of the provisions required therein or in any way violates any of those provisions shall be subject to warning and to civil penalties payable to the State to be recovered in a civil action as provided in this section.

1. **First violation.** Any person who is found by the commissioner to have committed a first violation shall be issued a warning indicating the nature of the violation and may be required to repack the potatoes in conformance with state law. A person is not subject to a civil penalty for a first violation.

2. **Violations subsequent to the first.** The following civil penalties apply to violations subsequent to the first:

A. For the 2nd violation, a civil penalty of not less than \$100 nor more than \$200;

B. For the 3rd violation, a civil penalty of not less than \$400 nor more than \$500; and

C. For the 4th and subsequent violations committed during the shipping season, a civil penalty of not less than \$1,000 and, after notice and opportunity for hearing is provided by the commissioner in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, for adjudicatory proceedings, the violator may, for the remainder of the period, be subject to mandatory inspection in the manner provided in section 446.

Sec. 7. 7 MRSA c. 103, sub-c. X, Article 1-A is enacted to read:

ARTICLE 1-A

CENTRAL STORAGE, PACKING AND MARKETING

§ 971. Purpose

The Legislature finds that agriculture, particularly the production and marketing of potatoes, is a significant and unique component of the economy of the State and is the single most important component of the economy of northern Maine. The Legislature further finds that the potato industry in Maine is in serious decline and, that unless major changes in the existing packing, storing and

marketing systems are accomplished, the industry will not remain viable. The Legislature intends through this Article and Article 4 to stimulate the improvement of the potato industry. The Legislature finds that a strengthened potato industry will benefit the entire economy and promote improvement and stabilization in the use of our agricultural resources for the benefit of the people of this State. It is the intent of the Legislature to provide the statutory framework and initial funding to begin programs for improved marketing systems, including modernization, construction and operation of storage and centralized packing facilities for potatoes.

§ 972. Potato Marketing Improvement Committee

The commissioner shall appoint an advisory committee of 8 members to be known as the Potato Marketing Improvement Committee. The Potato Marketing Improvement Committee shall advise the commissioner on the development and implementation of improved potato marketing systems, including the modernization, construction and operation of storage and central packing facilities. The Potato Marketing Improvement Committee shall also advise the commissioner concerning the funding and expenditures of the Potato Marketing Improvement Fund created pursuant to section 973. The Potato Marketing Improvement Committee shall include one member representing the University of Maine, one member representing the Maine Potato Council, one member representing the Maine Potato Commission, one member representing the Maine Potato Sales Association, one member representing the Farmers Home Administration, one member representing the Farm Credit Service, one member representing the State Development Office and one member representing the public. Where the commissioner finds it appropriate, the members representing the Farmers Home Administration and the Farm Credit Service may serve as a loan review committee and advise him, on a confidential basis, on applications for funding.

§ 973. Potato Marketing Improvement Fund

There is created a fund to be known as the Potato Marketing Improvement Fund, to which shall be credited all funds received by the commissioner from any source for the development and implementation of an improved storage, packing and marketing program. Any money credited to the Potato Marketing Improvement Fund from the issuance of bonds on behalf of the State for agricultural development shall be used only for the purposes of state loans as prescribed by section 974. Repayment of these loans and interest thereon shall be credited to the Potato Marketing Improvement Fund to be available for making additional state loans for the same purposes.

§ 974. State loans

1. State loans. State loans are subject to the following conditions:
 - A. No state loan may exceed 45% of the project cost;

B. No state loan may be provided unless the applicant demonstrates a commitment of private funds of at least 10% of the project cost;

C. State loans shall be at the interest rate established pursuant to subsection 2; and

D. Other terms and conditions prescribed by rule by the commissioner upon consultation with the Potato Marketing Improvement Committee.

2. State loan interest rate. State loans shall be at an interest rate which is equivalent to:

A. The rate at which the State issues its general obligation bonds; and

B. A fee for administrative costs which shall be at a rate set by rule by the commissioner upon consultation with the Potato Marketing Improvement Committee, but which rate shall not exceed 1% of the loan.

In determining the applicable rate, the rate for the issue of state general obligation bonds which immediately preceded the date of the loan shall be used.

Sec. 8. 7 MRSA § 1012, sub-§ 3, 2nd sentence, as enacted by PL 1971, c. 366, is amended to read:

The term "broker" shall apply to nonresidents of this State who carry on such business in this State, ~~and have a place of business in this State~~ whether such "broker" is licensed in the state of his residence or not.

Sec. 9. 7 MRSA § 1012, sub-§ 5, ¶ C, as enacted by PL 1971, c. 366, is amended to read:

C. Nonresidents of this State who carry on the business of buying and selling potatoes in this State, ~~and have a place of business in this State~~ whether such dealer is licensed in the state of his residence or not.

Sec. 10. 7 MRSA c. 103, sub-c. X, Article 4 is enacted to read:

ARTICLE 4

MAINE POTATO QUALITY CONTROL

§ 1031. Purpose

The purpose of this Article is to use a public and private partnership to create a voluntary potato quality control system to promote the sale of Maine potatoes.

§ 1032. Definitions

As used in this Article, unless the context otherwise indicates, the following terms have the following meanings.

1. **Board.** "Board" means the Maine Potato Quality Control Board established pursuant to section 1033.

2. **Consumer pack.** "Consumer pack" means a unit of 50 pounds or less net weight of potatoes contained in a bag or other type of container.

3. **Maine bag.** "Maine bag" means any consumer pack for potatoes on which appears the word "Maine" or a pictorial representation of the outline of the shape of the State, provided that the address of the producer, packer or any other person may appear at the bottom of the bag in letters not taller than 1/4 inch.

4. **Maine bag grade.** "Maine bag grade" means any of the officially established grades of potatoes as adopted by the board.

§ 1033. Maine Potato Quality Control Board

1. **Board.** The Maine Potato Quality Control Board is established, to consist of the following members:

- A. One representative elected by the Maine Potato Commission;
- B. Five representatives elected by the Maine Potato Council; one from each of the 3 districts defined in section 993, subsection 3, paragraphs A, C and D, and 2 from the district defined in section 993, subsection 3, paragraph B;
- C. One representative elected by the Maine Potato Sales Association;
- D. A representative of the department, appointed by the commissioner; and
- E. A person appointed by the Governor to represent consumers.

Members shall serve for staggered 2-year terms. In the initial membership, the board shall determine that 4 of its members shall serve for one-year terms.

2. **Duties.** The board shall have the following duties:

- A. To promote the quality control of potatoes made subject to this Article;
- B. To adopt grades for potatoes and identification to be used on consumer packs of potatoes to be packed in Maine bags, as authorized in this Article;
- C. To hear and resolve grievances regarding inspections;
- D. To employ and supervise staff, which staff shall not be considered state employees;

- E. To require reports of inspectors on work done under this Article;
- F. To adopt a fee schedule and require the payment of a fee to cover such portion of the expenses of the board as the board determines necessary; and
- G. To do other acts necessary to implement this Article.

3. **Finances.** The board may receive funds from any source and spend funds in furtherance of this Article. The members may be paid mileage at the rate authorized for state employees and daily expenses as determined by the board. The board may employ staff and hire consultants. Any funds received by the board shall be placed in a nonlapsing revolving fund.

4. **Standards.** The board shall conduct its business consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, and the Freedom of Access laws, Title 1, chapter 13, subchapter I, but shall not be considered a state agency.

§ 1034. **Inspection**

The board may employ inspectors and may require payments for inspection at a rate and schedule to be determined by rule by the board.

§ 1035. **Maine bag grades**

1. **Maine bag grades.** Prior to August 1st of each year, the board shall, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, adopt the official Maine bag grade or grades for potatoes. The Maine bag grades shall not be less than United States No. 1. Once adopted, the grades shall not change for that year.

2. **Logo and Maine bag.** The board shall adopt an official logo which, at a minimum, shall contain an outline of the shape of the State. Any Maine bag shall bear a statement that the contents have been inspected and meet the grade standards of the board.

§ 1036. **Packing and inspection; shipping penalty; enforcement**

1. **Packing and inspection.** No person may pack potatoes in a Maine bag, unless he has given notice of intent to pack to the board.

2. **Shipping.** A packer shall ship in a Maine bag only those potatoes that have been determined by a duly authorized inspector to have met the standards required by this Article.

3. **Penalty.** Any person who violates this section is subject to the provisions of section 957.

§ 1037. **Inspector licensing**

1. License. The commissioner may establish standards for licensing potato inspectors for the purposes of this subchapter, conduct examinations to license and license successful applicants; provided that the commissioner may determine not to license such private inspectors if he finds that the volume of potatoes inspected by the federal-state inspection service is insufficient to reasonably and efficiently sustain the availability at the federal-state inspection service in the State. The commissioner shall charge a fee of \$10 for taking the examination and \$15 for a license. A license shall be for 2 years and may be renewed.

2. Fees. All fees collected under this section shall be paid immediately to the Treasurer of State and credited to the department for the administration of this section and other expenses incident to the administration of this subchapter. If any fees are not spent during the year in which they are collected, the unexpended balance shall not lapse, but shall be carried as a continuing account and available for the purpose specified until spent.

3. Revocation. The commissioner may refuse to renew and the Administrative Court may revoke the license of an inspector upon finding that the inspector has knowingly falsified information relating to inspections or his application for a license.

Sec. 11. Public Law 1981, chapter 154, sections 2 and 3 are repealed.

Sec. 12. Transition provisions. Any grades, sizes and the form of the Maine bag approved prior to the effective date of the Revised Statutes, Title 7, chapter 103, subchapter X, Article 4, by a board identical in composition to the Maine Potato Quality Control Board by the procedure set out in this Article is deemed ratified on the effective date of this Article.

Sec. 13. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82	1982-83
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Unallocated	\$131,250	\$150,000

The Commissioner of Agriculture, Food and Rural Resources shall provide no more than \$30,000 each year to the Maine Potato Quality Control Board which shall use these funds for purposes of the Revised Statutes, Title 7, chapter 103, subchapter X, article 4. the remaining funds shall be used to reduce the cost of shipping point inspections.