

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

tion of the bond, unless a certificate be issued by the State Tax Assessor to the effect that all taxes due to the State have been paid. In the discretion of the State Tax Assessor, cash may be accepted in lieu of a surety bond, such cash to be paid over by the State Tax Assessor to the Treasurer of State, who may deposit or hold the same subject to further order of the State Tax Assessor. The State Tax Assessor shall cause each metering machine approved by him to be read and inspected at least once a month and shall determine as of the time of each inspection the amount of tax due from the distributor or dealer using such machine after allowing for the discount, if any, provided for in section 4366, which tax shall be due and payable upon demand of the State Tax Assessor or his duly authorized agent.

Sec. 22. 36 MRSA §5122, sub-§2, ¶A, as amended by PL 1983, c. 519, §25, is further amended to read:

A. Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States or on a seller-sponsored loan, as defined by Title 10, section 974 983, subsection 16 to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States, provided that the amount subtracted shall be decreased by any expenses incurred in the production of the interest or dividend income to the extent that these expenses, including amortizable bond premiums, are deductible in determining federal adjusted gross income; and

Effective July 25, 1984.

CHAPTER 829

H.P. 1774 - L.D. 2352

AN ACT to Amend the Potato Price
Stabilization Program.

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

Sec. 1. 5 MRSA §711, sub-§2, ¶A, as amended by PL 1983, c. 349, §2; c. 480, §3; c. 489, §4; and c.

566, §1, is repealed and the following enacted in its place:

A. The following positions in the following departments are major policy-influencing positions. These positions and their successor positions shall be subject to this subsection, notwithstanding any other provision of law:

(1) Department of the Attorney General:

(a) Deputy Attorneys General; and

(b) Assistant Attorneys General;

(1-A) Department of Agriculture, Food and Rural Resources:

(a) Deputy Commissioners;

(b) Associate Commissioner for Policy Development;

(c) Director, Bureau of Agricultural Productions;

(d) Director, Bureau of Agricultural Marketing;

(e) Director, Bureau of Agricultural and Rural Resources;

(f) Director, Bureau of Public Services;

(g) Assistant to the Commissioner for Public Information; and

(h) Assistant to the Commissioner for Potato Marketing;

(2) Department of Business, Occupational and Professional Regulation:

(a) Superintendent, Bureau of Banking;

(b) Superintendent, Bureau of Consumer Credit Protection;

(c) Superintendent, Bureau of Insurance; and

(d) Assistant to the Commissioner;

(3) Department of Conservation:

- (a) Director, Administrative Services;
- (b) Director, Planning and Program Services;
- (c) Director, Bureau of Forestry;
- (d) Director, Maine Geological Survey;
- (e) Executive Director, Maine Land Use Regulation Commission;
- (f) Director, Bureau of Parks and Recreation;
- (g) Director, Bureau of Public Lands;
- (h) Forest Insect Manager, Bureau of Forestry;
- (i) Assistant to the Commissioner for Public Information; and
- (j) Assistant to the Commissioner;

(4) Department of Educational and Cultural Services:

- (a) Assistant to the Commissioner;
- (b) Deputy Commissioner;
- (c) Associate Commissioner, Bureau of School Management;
- (d) Associate Commissioner, Bureau of Instruction;
- (e) Associate Commissioner, Bureau of Vocational Education;
- (f) Director, Planning and Management Information; and
- (g) Federal and State Education Program Coordinator;

(4-A) Department of Environmental Protection:

- (a) Deputy Commissioner; and

(b) Assistant to the Commissioner;

(5) Department of Finance and Administration:

(a) State Controller;

(b) State Purchasing Agent;

(c) State Tax Assessor;

(d) Director, Bureau of Public Improvements;

(e) Director, Bureau of Alcoholic Beverages;

(f) State Budget Officer;

(g) Assistant to the Commissioner; and

(h) Director, Risk Management;

(6) Department of Human Services:

(a) Deputy Commissioners;

(b) Director, Bureau of Maine's Elderly;

(c) Director, Bureau of Resource Development;

(d) Director, Bureau of Health;

(e) Director, Bureau of Rehabilitation;

(f) Director, Bureau of Income Maintenance;

(g) Director, State Health Planning and Development Agency; and

(h) Director, Bureau of Medical Services;

(7) Maine Human Rights Commission:

(a) Executive Director; and

(b) Chief Compliance Officer;

(8) Department of Inland Fisheries and Wildlife:

(a) Deputy Commissioner;

(b) Game Warden Colonel;

(c) Assistant to the Commissioner for Public Information; and

(d) Assistant to the Commissioner;

(9) Maine State Lottery Commission:

(a) Deputy Director;

(10) Department of Labor:

(a) Director, Maine Job Training Council;

(b) Director, Bureau of Labor Standards;

(c) Executive Director, Maine Labor Relations Board;

(d) Assistant to the Commissioner;

(e) Assistant to the Commissioner for Public Information;

(f) Director, Planning and Program Services;

(g) Executive Director, Bureau of Employment Security;

(h) Executive Secretary, Maine Occupational Information Coordinating Committee; and

(i) Executive Director, Bureau of Employment and Training Programs;

(11) Department of Marine Resources:

(a) Deputy Commissioner;

(b) Chief, Bureau of Marine Patrol; and

(c) Assistant to the Commissioner;

(12) Department of Mental Health and Mental Retardation:

- (a) Associate Commissioner;
- (b) Director, Bureau of Mental Health;
- (c) Superintendent, Augusta Mental Health Institute;
- (d) Superintendent, Bangor Mental Health Institute;
- (e) Director, Bureau of Mental Retardation;
- (f) Superintendent, Pineland Center; and
- (g) Director, Bureau of Corrections;

(13) Department of Defense and Veterans' Services:

- (a) Deputy Adjutant General;
- (b) Director, Bureau of Civil Emergency Preparedness; and
- (c) Director, Bureau of Veterans' Services;

(14) Department of Public Safety:

- (a) Chief, Bureau of State Police;
- (b) Director, Bureau of Liquor Enforcement;
- (c) Director, Office of State Fire Marshal;
- (d) Director, Maine Criminal Justice Academy;
- (e) Assistant to the Commissioner for Public Information;
- (f) Assistant to the Commissioner; and
- (g) Two Deputy Chiefs, State Police;

(15) Department of Secretary of State:

- (a) Deputy Secretaries of State; and
- (b) State Archivist;
- (16) Department of Transportation:
 - (a) Deputy Commissioners;
 - (b) Chief Counsel, Bureau of Legal Services;
 - (c) Assistant to the Commissioner; and
 - (d) Assistant to the Commissioner for Public Information; and
- (17) Department of Personnel:
 - (a) Assistant to the Commissioner; and
 - (b) Director, Planning and Operations.

Sec. 2. 7 MRSA §1008, as enacted by PL 1983, c. 582, §1, is amended to read:

§1008. Purpose

The Legislature finds that the potato industry has a substantial and unique effect on the economy of the entire State, Aroostook County in particular. Over the years, the industry has experienced wide fluctuations in price and price has sometimes not completely reflected the actual demand for Maine potatoes. These fluctuations have caused instability in the economy of a large portion of the State. In seeking to reduce this instability, it is the Legislature's purpose to supplant destructive price competition by requiring the commissioner to set a daily minimum price governing the sale of potatoes by first handlers determine and report market conditions and the fair market value of potatoes offered by first handlers. This program will encourage the orderly marketing of potatoes grown within this State and reduce economic waste in the marketing of these potatoes.

Sec. 3. 7 MRSA §1008-A, sub-§4, as enacted by PL 1983, c. 582, §1, is repealed and the following enacted in its place:

4. Daily fair market value. "Daily fair market value" means the value defined by the commissioner pursuant to section 1008-C, subsection 2, as adjusted

by the applicable differential established consistent with section 1008-C, subsection 1.

Sec. 4. 7 MRSA §1008-A, sub-§6, as enacted by PL 1983, c. 582, §1, is amended to read:

6. First handler. "First handler" means any person employed in the business of loading or of placing table stock potatoes in any type of container for exposure for sale, provided that first handler does not ~~means~~ mean any person loading potatoes in bulk for delivery to a processor, ~~which delivery shall occur in this State.~~

Sec. 5. 7 MRSA §1008-B, sub-§1, as enacted by PL 1983, c. 582, §1, is amended to read:

1. Board membership. There shall be created an advisory board to advise the commissioner on potato marketing issues as provided for in this Article. This board shall be known as the Maine Marketing Advisory Board and shall consist of 5 members appointed by the commissioner, of whom 3 shall be ~~licensed~~ first handlers, who are not ~~also~~ licensed dealers, and 2 shall be licensed dealers. Members shall each fill a 2-year term, which shall begin on July 1st, except that within 30 days of the effective date of this Article the commissioner shall appoint one ~~licensed~~ first handler and one licensed dealer who shall serve until June 30, 1984, and he shall appoint 2 ~~licensed~~ first handlers and one licensed dealer who shall serve until June 30, 1985.

Sec. 6. 7 MRSA §1008-B, sub-§7, as enacted by PL 1983, c. 582, §1, is amended to read:

7. Expenses and compensation. No board member may receive a salary, but each may be entitled to his actual expenses incurred while engaged in performing his authorized duties. The commissioner may employ necessary personnel including an assistant for potato marketing, fix their compensation and terms of employment and authorize them to incur such expenses, as the commissioner may deem necessary and proper to enable the board properly to perform its duties as are authorized in this Article.

Sec. 7. 7 MRSA §1008-B, sub-§8, ¶A, as enacted by PL 1983, c. 582, §1, is amended to read:

A. Prior to the beginning of each marketing year, study the existing supply of potatoes in the State and the existing and potential market for the potatoes and shall recommend to the com-

missioner a pricing strategy for the marketing year or any month or portion thereof. In developing this policy, the board shall consider economic and marketing information, including the estimated volume of Maine potatoes; the estimated volume of potatoes available in other areas; the past, present and prospective demand for Maine potatoes of various grades, sizes and varieties; and conditions under which a daily minimum price might be disruptive to the marketing process fair market value can not be determined. The board shall advise the commissioner of its findings along with recommendations for procedures to guide the establishment determination of a daily minimum price fair market value; and

Sec. 8. 7 MRSA §1008-C, sub-§1, as enacted by PL 1983, c. 582, §1, is amended to read:

1. Determination of guidelines; price differentials; information. After considering recommendations of the board and ~~after notice and opportunity for hearing~~, adopt determine:

A. Guidelines for establishing a daily minimum price fair market value as provided for in subsection 2. These guidelines shall be designed to assure that table stock producers ~~receive a price have available to them a fair market value~~ which reflects the market demand for their potatoes and include, but not be limited to, consideration of:

- (1) Prices for potatoes from other areas;
- (2) Supplies of Maine potatoes of various varieties and grades;
- (3) Current and projected prices for Maine potatoes systematically collected from sources representing all elements of the Maine table stock industry;
- ~~(4) Benefits which will result from establishing a minimum price; and~~
- (4-A) Conditions under which a fair market value cannot be determined; and
- (5) Other pertinent market factors;

B. Price differentials that vary from the minimum price fair market value established under subsection 2, to reflect such factors as quality, container type and transportation costs. Whenever

er the commissioner has reasonable grounds to believe that the differentials so established no longer reflect the market conditions, he may adopt or modify these differentials after notice and opportunity for hearing has been provided in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375; and

C. Procedures for disseminating daily minimum price fair market value and other information to all interested parties;

Sec. 9. 7 MRSA §1008-C, sub-§2, as enacted by PL 1983, c. 582, §1, is repealed and the following enacted in its place:

2. Daily fair market value. Based on guidelines established in subsection 1, determine a daily fair market value to first handlers for round white potatoes offered F.O.B., Presque Isle, for United States number 1, size A, 2-inch minimum, packed in 50-pound containers. Upon request of the board, the commissioner shall provide to the board and other interested parties a written explanation of the basis for the fair market value as it is determined on any given day;

Sec. 10. 7 MRSA §1008-C, sub-§3, as enacted by PL 1983, c. 582, §1, is amended to read:

3. Access to information. Ensure that no dealer or first handler will have access to the information which is the basis for the daily minimum price fair market value prior to the establishment of that price value by the commissioner. The basis of price the fair market value determination and the price value itself before it is released as public information shall be considered confidential information for purposes of the freedom of access law, Title 1, section 402, subsection 3, and.

Sec. 11. 7 MRSA §1008-C, sub-§4, as enacted by PL 1983, c. 582, §1, is repealed.

Sec. 12. 7 MRSA §§1008-D and 1008-E, as enacted by PL 1983, c. 582, §1, are repealed.

Sec. 13. 7 MRSA §1008-F, as enacted by PL 1983, c. 582, §1, is amended to read:

§1008-F. Budget

Each fiscal year, the commissioner shall develop a budget to provide for the efficient and effective

operation of a program to carry out the purposes of this Article. This information shall be the basis for establishing licensing fees authorized under the provisions of Article 3-A.

Sec. 14. 7 MRSA §1008-H, as enacted by PL 1983, c. 582, §1, is repealed.

Sec. 15. 7 MRSA §1017, sub-§1-A, as enacted by PL 1983, c. 582, §2, is repealed.

Sec. 16. 7 MRSA c. 103, sub-c. X, Art. 3-A, as amended, is repealed.

Sec. 17. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act:

1984-85

Agriculture, Food and Rural Resources,
Department of

Bureau of Agricultural Marketing

Potato Price Information Program

Positions (1)

Personal Services \$20,000

These funds shall be appropriated contingent upon a \$10,000 contribution from the Maine Potato Commission and shall be used with that contribution and approximately \$50,000 in first handler license fees collected for the 1983-84 marketing season to implement the provisions of Public Law 1983, chapter 582, as amended by this Act.

Effective July 25, 1984.

