

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

(2) Joint ownership, if any, that the offender may have in any assets, earnings or other sources of income; and

(3) The income, assets, earnings or other property, both real and personal, owned by the offender's spouse or family.

If the recommendations of the hospital medical staff are not carried out, the warden shall immediately convey the reasons and circumstances for this decision to the commissioner for his review and final disposition.

Effective July 16, 1986.

CHAPTER 753

S.P. 876 - L.D. 2205

AN ACT to Reorganize the Maine Potato Industry.

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

Sec. 1. 5 MRSA §12004, sub-§9, ¶A, sub-¶¶(8) and (9) are repealed.

Sec. 2. 5 MRSA §12004, sub-§9, ¶A, sub-¶(8-A) is enacted to read:

(8-A) Maine Potato Board Legislative 36 MRSA §4603
Per Diem

Sec. 3. 36 MRSA §4561 is repealed.

Sec. 4. 36 MRSA §4562, as amended by PL 1979, c. 541, Pt. A, §227, is repealed.

Sec. 5. 36 MRSA §4563, as amended by PL 1983, c. 812, §§277 and 278, is repealed.

Sec. 6. 36 MRSA §4563-A, as amended by PL 1977, c. 694, §717, is repealed.

Sec. 7. 36 MRSA §4565, as amended by PL 1983, c. 766, §1, is repealed.

Sec. 8. 36 MRSA §4566 is repealed.

Sec. 9. 36 MRSA §4567, as amended by PL 1977, c. 694, §718, is repealed.

Sec. 10. 36 MRSA §4568, as repealed and replaced by PL 1975, c. 554, §6, is repealed.

Sec. 11. 36 MRSA §4569, as amended by PL 1985, c. 506, Pt. A, §77, is repealed.

Sec. 12. 36 MRSA §4570 is repealed.

Sec. 13. 36 MRSA §4571, as amended by PL 1983, c. 812, §279, is repealed.

Sec. 14. 36 MRSA c. 710 is enacted to read:

CHAPTER 710

POTATO INDUSTRY

§4601. Legislative findings and purpose

The Legislature finds that the potato industry is an essential component of the economic and social welfare of the State, particularly in portions of the State which are stressed by lack of other economic opportunities. Accordingly, the Legislature finds that special efforts by State Government are warranted in order to mobilize and improve the Maine potato industry.

The Legislature also finds that the current, highly fragmented organization of the Maine potato industry inhibits the type of effective leadership which is needed if that industry is to survive. The purpose of this chapter is to create a unified organizational structure, under the auspices of a state agency, to provide for the advancement of the Maine potato industry in the public interest and for the public good. Under this new organizational structure, all elements of the Maine potato industry will be represented and will work together under the leadership of a unified, public board to solve the problems facing the industry.

§4602. Definitions

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

1. Board. "Board" means the Maine Potato Board.

2. Dealer. "Dealer" means any person, defined as a dealer under Title 7, section 1012, who is licensed as a dealer under Title 7, section 1015.

3. District. "District" means each one of the geographical divisions of Maine, as follows:

A. District One: Cyr, Eagle Lake, Fort Kent, Fort Kent Mills, Frenchville, Grand Isle, Hamlin, Keegan, Lille, Madawaska, New Canada Plantation, St. Agatha, St. David, St. Francis, St. John, Soldier Pond, T.R. 17, Upper Frenchville, Van Buren, Wallagrass and Winterville;

B. District 2: Caribou, Connor Township, Crouseville, New Sweden, Perham, Stockholm, Wade, Washburn, Westmanland and Woodland;

C. District 3: Caswell Plantation, Fort Fairfield and Limestone;

D. District 4: Ashland, Castle Hill, Chapman, Easton, Mapleton, Masardis, Nashville, Presque Isle and Westfield;

E. District 5: Blaine, Bridgewater, E. Plantation and Mars Hill;

F. District 6: Amity, Cary Plantation, Hammond Plantation, Hodgdon, Houlton, Linneas, Littleton, Ludlow, New Limerick and Monticello; and

G. District 7: All remaining municipalities and townships in the State not included in Districts 1 to 6.

4. Potatoes. "Potatoes" means and includes all potatoes, whether graded or ungraded, including all potatoes sold for processing into food, but does not include potatoes sold for processing into starch, unless the potatoes are sold under a federal diversion program and paid for as grade potatoes.

5. Processing grower. "Processing grower" means any grower of potatoes destined for sale to a processor.

6. Processor. "Processor" means any person, defined as a processor under Title 7, section 1012, who is licensed as a processor under Title 7, section 1015.

7. Seed grower. "Seed grower" means any grower of potatoes destined for sale as seed.

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

9. Shipper. "Shipper" means any person 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;

C. Processor;

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

10. Tablestock grower. "Tablestock grower" means any grower of potatoes destined for fresh market sale.

§4603. Maine Potato Board

1. Establishment. The Maine Potato Board, as established by Title 5, section 12004, subsection 9, is within the Department of Agriculture, Food and Rural Resources. The board shall consist of 11 members who, following the transition period provided for in subsection 11, shall be elected in accordance with the procedures set forth in this chapter and such additional procedures as the board may prescribe by rulemaking. Subject to such staggered terms as the board may provide by rule, board members shall serve 2-year terms, provided that a board member may continue to serve until a successor is duly elected and qualified and that board members may not serve more than 3 consecutive terms.

2. Assemblies. Persons directly involved in the Maine potato industry shall be entitled to participate as members of an assembly as follows.

A. There shall be 7 assemblies of tablestock growers, one for each district. Subject to paragraph F, all tablestock growers in any district shall be entitled to membership in that district's tablestock growers' assembly.

B. There shall be 7 assemblies of seed growers, one for each district. Subject to paragraph F, all seed growers in any district shall be entitled to membership in that district's seed growers' assembly.

C. There shall be 7 assemblies of processing growers, one for each district. Subject to paragraph F, all processing growers in any district shall be entitled to membership in that district's processing growers' assembly.

D. There shall be one assembly of dealers statewide. Subject to paragraph F, all dealers shall be entitled to membership in this assembly.

E. There shall be one assembly of processors statewide. Subject to paragraph F, all processors shall be entitled to membership in this assembly.

F. Notwithstanding paragraphs A to E, no person, firm or corporation may be a member of more than one assembly. Any person, firm or corporation which qualifies for membership in an assembly shall annually declare, in accordance with procedures prescribed by the board, the assembly in which membership is sought.

3. Election of assembly executive councils. Pursuant to nomination and election procedures adopted by the board and under the supervision of the board, assemblies shall elect executive councils to serve as liaisons between the board and the respective assemblies and to carry out such other functions as the board may prescribe.

A. The executive council for the tablestock growers shall consist of 7 members, one elected by the tablestock growers' assembly for each district.

B. The executive council for the seed growers shall consist of 7 members, one elected by the seed growers' assembly for each district.

C. The executive council for the processing growers shall consist of 7 members, one elected by the processing growers' assembly for each district.

D. The executive council for the dealers shall consist of 7 members elected by the dealers' assembly.

E. The executive council for the processors shall consist of 5 members elected by the processors' assembly.

4. Terms of executive council membership. Once elected, executive council members shall serve for 2 years, provided that the members may continue to serve until a successor is duly elected and qualified and that executive council members may not serve more than 3 consecutive terms.

5. Meetings of executive councils and assemblies. Executive councils shall annually elect officers, including a chairman, vice-chairman and secretary. Each executive council shall hold meetings from time to time, no less than 4 times a year, upon call of the executive council chairman, a majority of the executive council or upon call of the board. Each assembly shall hold meetings from time to time, no less than once a year, upon call of a majority of its executive council or upon call of the board, provided that district assemblies of growers may hold these meetings jointly in statewide sessions or in concert with other assemblies or groups of assemblies. All meetings of assemblies and executive councils shall be open to the public and otherwise in compliance with Title 1, chapter 13.

6. Election of the board. The board's members shall be selected from the executive councils as follows.

A. Two members shall be elected by the executive council of the tablestock growers' assemblies, provided that no dealer may serve in this capacity.

B. Two members shall be elected by the executive council of the seed growers' assemblies, provided that no dealer may serve in this capacity.

C. Two members shall be elected by the executive council of the processing growers' assemblies, provided that no dealer may serve in this capacity.

D. Three members shall be elected by the executive council of the dealers' assembly, provided that at least one dealer member must also be a potato grower.

E. Two members shall be elected by the executive council of the processors' assembly.

In the event of the permanent disqualification or resignation of a board member, the executive council responsible for electing that member shall elect a replacement for the balance of the term remaining.

7. Board officers and committees. The board shall annually elect officers, including a president, vice-president, secretary and treasurer and such other officers as it deems necessary. The board may appoint committees from its membership and assign to each committee such tasks as it deems appropriate, subject to the regular oversight of the entire board.

8. Board meetings. A regular annual meeting of the board shall be held on a date determined by the board. Other meetings, which shall be at least monthly, with the exception of the months of May and September, shall be held upon call of the chairman or of a majority of the board or by vote of the board. A majority of the board's members shall constitute a quorum at any board meeting. The vote of a majority of board members present shall constitute the act of the board at a meeting where a quorum is present. All board meetings shall be open to the public and shall be in compliance with Title 1, chapter 13, except as otherwise provided in this chapter.

9. Staff. The board shall appoint an executive director who shall be the board's chief administrative officer and who shall serve at the pleasure of the board. The executive director shall employ such additional staff as the board directs and the staff shall serve at the pleasure of the executive director. No staff of the board is subject to the Personnel Law. The salary paid to the executive director and other staff of the board shall be fixed by the board, subject to the approval of the Governor. The board may delegate to its staff the power to execute the board's policies and programs, subject to regular oversight of the board.

10. Compensation. Board members and members of executive councils may be reimbursed for travel expenses necessary to their official business in accordance with state procedures. Board members shall also receive a per diem allotment for attendance at board meetings as provided in Title 5, chapter 379.

11. Transition. Assemblies shall first elect their respective executive councils not later than January 31, 1987. Executive councils shall first elect their respective members of the board not later than March 15, 1987. The duly elected board shall

hold its first meeting not later than April 15, 1987. Until the first meeting of the elected board, a transitional board shall be constituted, having all of the powers and duties of the board, in order to undertake the operations of the board following the effective date of this chapter. A principal duty of the transitional board shall be to prepare procedures for and to oversee the initial meetings of assemblies and the initial elections of executive councils and the board. The transitional board shall be composed of 8 voting members, with 2 members each appointed by the boards of the Maine Potato Commission, the Maine Potato Council, the Maine Potato Sales Association and the Agricultural Bargaining Council. It is the intent of the Legislature that the transitional board, to the extent practicable, shall be composed of those persons who currently comprise the membership of the committee making recommendations to the Legislature for reform of the organization of the potato industry pursuant to Public Law 1983, chapter 766.

To effect a smooth transition of functions following the effective date of this chapter, the transitional board may make money available to the Maine Potato Commission and the Maine Potato Council in order to allow them to complete the work undertaken previously with potato tax revenues and to transfer to the board such ongoing activities as the board deems appropriate, provided that the transition shall be completed no later than April 15, 1987, and that, except as expressly otherwise directed by the board, all money, accounts, assets and other property held by the Maine Potato Commission and not previously transferred to the board shall automatically be transferred to and controlled by the board as of April 15, 1987.

§4604. Powers and duties of the Maine Potato Board

In furtherance of the purposes of this chapter, the board shall have the following powers and duties.

1. Rules and bylaws. The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt rules and bylaws to govern its functions and those of the assemblies and executive councils provided for in this chapter.

2. Programs. The board may make studies, undertake research, marketing and promotional programs, publish and disseminate information and implement other programs as are in furtherance of its legislative purposes, provided that programs undertaken by

the board shall be designed to benefit the Maine potato industry at large or segments of the industry, but shall not be designed to benefit exclusively any one person or entity involved in the industry.

3. Contracts. The board may, subject to laws and procedures generally applicable to state agencies, enter into contracts and agreements with private and public entities which the board finds are in furtherance of its legislative purposes. The contracts and agreements may include, without limitation, those relating to the lease or purchase of office space, facilities, property, equipment and supplies as the board deems necessary for its purposes. The board may delegate to its executive director the power to enter into the contracts and agreements, subject to the board's oversight.

4. Funding; accounts. In addition to the money received by the board pursuant to section 4606, the board may receive and expend funds from any source, public or private, which it deems necessary to carry out its legislative purposes. All money received from any source shall be placed in a nonlapsing, separate account or accounts, to be expended for the purposes.

5. Books and records; confidentiality. The board shall 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 Auditor shall conduct an annual audit of the financial records of the board and shall report the results of the audit to the board, the Commissioner of Agriculture, Food and Rural Resources, the Treasurer of State and the Legislature. All books and records of the board shall be open to public inspection in accordance with Title 1, chapter 13, provided that records and meetings of the board may by vote be closed to the public where public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the Maine potato industry or segments of the industry.

6. Assemblies and executive councils. The board shall oversee, communicate with and coordinate the work of assemblies and their executive councils. The board may make money available to enable the assemblies and executive councils to undertake functions in furtherance of this chapter, subject to the board's supervision.

§4605. Potato tax

1. Rate. A tax is levied and imposed at the rate of \$.05 per hundredweight on all potatoes grown in this State, provided that no tax may be imposed on any potatoes which are retained by the grower to be used by him for seed purposes or for home consumption and provided further that no tax may be imposed on any potatoes received by a processor which are certified as unmerchantable by a federal state inspector.

2. Tax as additional. Any tax imposed and collected under this chapter shall be in addition to any other taxes imposed or collected under any other law of the State now or hereafter in force.

3. Due date. The tax shall be due upon any particular lot or quantity of potatoes as provided under subsection 6.

4. Application; certificate. Every shipper of potatoes shall file an application with the State Tax Assessor, on forms prescribed and furnished by him, which shall contain the name or names under which the shipper is transacting business within the State, the place or places of business and location or locations of loading and shipping places and agents of the shipper, the names and addresses of the several persons constituting a firm or partnership of the shipper and, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the State. Upon receipt of a complete and valid application, the State Tax Assessor will issue a certificate to the shipper. No person may act as a shipper until that certificate is issued to him. The certificate shall not be deemed a license within the meaning of that term in the Maine Administrative Procedure Act, Title 5, chapter 375.

5. Tax deducted from selling price. A shipper who purchases, ships, receives, processes handles or sells potatoes grown by another and pays, or becomes liable to pay, the tax imposed under this section shall charge and collect from the person from whom the potatoes were acquired an amount equal to 1/2 the rate of tax imposed under subsection 1, to be deducted or otherwise collected from the purchase price for all potatoes subject to the tax which are purchased, shipped, received, processed, handled or sold by the shipper.

6. Records and reports. Every shipper shall, on or before the 15th day of each month, report to the

State Tax Assessor the quantity of potatoes received, sold or shipped by him during the preceding calendar month and any additional information which the State Tax Assessor deems pertinent, on forms furnished by the State Tax Assessor. At the time of filing the report, each shipper shall pay to the State Tax Assessor a tax at the rate of \$.05 per hundredweight upon all potatoes reported as purchased, sold or shipped, subject to subsection 1.

7. Inspections. The State Tax Assessor or his duly authorized agent may enter any place of business of any shipper or any car, boat, truck or other conveyance in which potatoes are to be transported and to inspect books and records of any shipper for the purpose of determining what potatoes are taxable under this chapter and for the purpose of verifying any statement or return made by any shipper. The State Tax Assessor may delegate all or part of that authority to agents of the board or of the Commissioner of Agriculture, Food and Rural Resources.

§4606. Appropriations of money received

Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, shall be appropriated and used for the following purposes:

1. Collection and enforcement. For the collection of the tax provided for in this chapter and the enforcement of this chapter; and

2. Board's activities. For all activities of the board authorized under this chapter.

Sec. 15. Effective date. This Act shall take effect on August 1, 1986, except that sections 4, 5 and 6 shall take effect on April 15, 1987.

Effective August 1, 1986, unless otherwise indicated.

CHAPTER 754

S.P. 696 - L.D. 1782

AN ACT Concerning the Conservation and
Preservation of Unique State
Historical and Library Research
Material.