

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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

Twin City Printery
Lewiston, Maine
1987

PUBLIC LAWS

OF THE

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be conducted in accordance with sections 1351 to 1354.

Sec. 7. 20-A MRSA §15904, sub-§5 is enacted to read:

5. Vocational regions. In a vocational region, the vote shall be conducted in accordance with sections 1351 to 1354 and section 8465. References in sections 1351 to 1354 to school administrative unit and board of directors means "vocational region" and "cooperative board," respectively.

Effective September 29, 1987.

CHAPTER 99

H.P. 856 — L.D. 1150

AN ACT to Strengthen the Efforts of the Maine Potato Industry and the Responsibility of the Maine Potato Board to Improve the Quality of Maine Tablestock Potatoes.

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

Sec. 1. 7 MRSA §1031, as enacted by PL 1981, c. 513, §§10 and 12, is amended to read:

§1031. Purpose

The purpose of this Article article is to use a public and private partnership to create a voluntary potato quality control system to promote the sale of Maine potatoes. In order to further unify the Maine potato industry and to carry out the consolidation of potato industry organizations begun by the creation of the Maine Potato Board under Title 36, chapter 710, the Maine Potato Quality Control Board established by this article is brought under the structure of the Maine Potato Board and the duties, responsibilities and programs of the Maine Potato Quality Control Board shall be carried out under the oversight of the Maine Potato Board.

Sec. 2. 7 MRSA §1032, sub-§1, as enacted by PL 1981, c. 513, §§10 and 12, is repealed.

Sec. 3. 7 MRSA §1032, sub-§2-A, as amended by PL 1981, c. 698, §14, is repealed.

Sec. 4. 7 MRSA §1032, sub-§4, as enacted by PL 1981, c. 513, §10 and 12, is amended to read:

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

Sec. 5. 7 MRSA §1032, sub-§5, as enacted by PL 1981, c. 540, §5, is repealed.

Sec. 6. 7 MRSA §1033, sub-§1, as amended by PL

1983, c. 812, §48, is further amended to read:

1. Board. The Maine Potato Quality Control Board established by Title 5, section 12004, subsection 9, shall consist of the following members:

A. ~~One representative~~ Two representatives elected by the ~~Maine Potato Commission~~ executive council of the dealers assembly established pursuant to Title 36, chapter 710;

B. ~~Five Seven~~ representatives elected by the ~~Maine Potato Council~~; ~~one from each of the 3 districts defined in section 998, subsection 3, paragraphs A, C and D, and 2 from the district defined in section 998, subsection 3, paragraph B~~ of growers of tablestock potatoes, one elected by the assembly of tablestock growers in each of the districts established pursuant to Title 36, section 4602, subsection 3;

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 be elected or appointed, as the case may be, within 30 days of the effective date of this section as amended and shall serve for staggered 2-year terms. In the initial membership, the board shall determine that ~~4~~ 5 of its members shall serve for one-year terms. The board shall elect a chairman and shall meet at the call of the chairman and at the call of the Maine Potato Board. The members shall be compensated as provided in Title 5, chapter 379.

Sec. 7. 7 MRSA §1033, sub-§2, ¶B, as enacted by PL 1981, c. 513, §10, is amended to read:

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 article;

Sec. 8. 7 MRSA §1033, sub-§2, ¶D, as enacted by PL 1981, c. 513, §10, is repealed.

Sec. 9. 7 MRSA §1033, sub-§2, ¶G, as repealed and replaced by PL 1983, c. 780, §2, is amended to read:

G. To recommend to the commissioner the maximum inspection fee which should be assessed for loads packed in Maine bags and to advise the commissioner of all factors necessary to achieve full industry participation in the Maine Bag Program; ~~and.~~

Sec. 10. 7 MRSA §1033, sub-§2, ¶H, as enacted by PL 1983, c. 780, §2, is repealed.

Sec. 11. 7 MRSA §1033, sub-§3, as amended by PL

1983, c. 812, §49, is repealed and the following enacted in its place:

3. Finances. The Maine Potato Board may receive funds from any source and spend funds in furtherance of this article, in accordance with the plan and budget proposed by the Maine Potato Quality Control Board, as approved by the Maine Potato Board pursuant to subsection 4 or as the Maine Potato Board, in consultation with the Maine Potato Quality Control Board, shall determine to be appropriate and effective in promoting tablestock potatoes. Any funds received by the Maine Potato Board shall be placed in a nonlapsing revolving fund.

Sec. 12. 7 MRSA §1033, sub-§4, as enacted by PL 1981, c. 513, §§10 and 12, is repealed and the following enacted in its place:

4. Relationship to Maine Potato Board. The Maine Potato Quality Control Board shall function under the oversight of the Maine Potato Board. The Maine Potato Quality Control Board shall annually prepare a plan and budget for the carrying out of its responsibilities under this article, shall submit the plan and budget to the Maine Potato Board for its approval and, following approval, shall carry out the approved plan. If the plan and budget include the hiring of any staff, that staff shall be employees of the Maine Potato Board, in accordance with Title 36, section 4603, subsection 9.

Sec. 13. 7 MRSA §1033-A, sub-§§1 and 2, as enacted by PL 1983, c. 780, §3, are amended to read:

1. Inspection fee. After considering the recommendations of the ~~board~~ Maine Potato Quality Control Board, as provided in section 1033, subsection 2, paragraph G, and after considering available money appropriated from the General Fund, the commissioner shall set the inspection fee for ~~loads~~ potatoes packed in Maine bags pursuant to ~~rule~~ rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

2. Statement of basis for fee. Upon request of the ~~board~~ Maine Potato Quality Control Board, the commissioner shall provide to the board and other interested parties a written statement of the basis for the fee established under this section.

Sec. 14. 7 MRSA §1033-A, sub-§3 is enacted to read:

3. Maine bag grades. Pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, the commissioner shall adopt the official grade or grades for potatoes to be packed in Maine bags. The commissioner and the Maine Potato Quality Control Board shall jointly prepare proposed rules. These rules as finally adopted shall become effective on August 1st, following the effective date of this section and may be amended only annually thereafter, with amendments becoming effective on August 1st of the year in which adopted. No Maine bag grade may be less

than United States No. 1.

Sec. 15. 7 MRSA §1034, as enacted by PL 1981, c. 513, §§10 and 12, is amended to read:

§1034. Inspection

~~The board~~ As a part of an annual plan proposed and approved pursuant to section 1033, subsection 4, the Maine Potato Board may employ inspectors and may require payments for inspection at a rate and schedule to be determined established by rule by the board commissioner. The commissioner and the Maine Potato Quality Control Board shall jointly develop proposed rules

Sec. 16. 7 MRSA §1035, as enacted by PL 1981, c. 540, §6, is repealed and the following enacted in its place:

§1035. Maine bag logo

The Maine Potato Quality Control Board may adopt an official logo which, at a minimum, shall contain an outline of the shape of the State and may require its use on all Maine bags.

Sec. 17. 7 MRSA §1036, sub-§1, as enacted by PL 1981, c. 513, §§10 and 12, is amended to read:

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~~ department, in such form as the department may require.

Sec. 18. 7 MRSA §1036, sub-§2-A is enacted to read:

2-A. Other than Maine bag. No person may pack potatoes in any consumer pack on which the word "Maine" appears unless the pack is a Maine bag, except that the word "Maine" may appear on any consumer pack if it is the name and address of a producer, packer or any other person at the bottom of the pack and in letters not taller than 1/4 inch.

Sec. 19. 7 MRSA §1036-A is enacted to read:

§1036-A. Exemption

The requirements of this article do not apply to identification marks of bag manufacturers and bag distributors.

Sec. 20. 36 MRSA §4604, sub-§2, as enacted by PL 1985, c. 753, §§14 and 15, is amended to read:

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. The board shall carry out the duties, as set out in Title 7, article 4 and known as the "Maine Bag Program," and shall use any funds granted by the department to the board or obtained by the board from any other source for the Maine Bag Program to promote the sale of tablestock potatoes.

Sec. 21. Appropriation; intent. It is the intent of the Legislature that the funds appropriated or allocated to the Maine Potato Quality Control Board instead be appropriated or allocated to the Department of Agriculture, Food and Rural Resources, to be granted to the Maine Potato Board for the promotion of tablestock potatoes in accordance with Maine Revised Statutes, Title 7, article 4, and Title 36, section 4604, subsection 2.

Sec. 22. Transition. Rules adopted under this article and in effect on the effective date of this Act shall remain in effect until amended or replaced as provided herein.

Effective September 29, 1987.

CHAPTER 100

H.P. 327 — L.D. 426

AN ACT to Clarify the Emergency Rule-making Authority of the Commissioner of Marine Resources.

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

Sec. 1. 12 MRSA §6171-A, sub-§4, as enacted by PL 1981, c. 427, is repealed.

Sec. 2. 12 MRSA §6171-A, sub-§5, as amended by PL 1983, c. 645, §1, is repealed.

Sec. 3. 12 MRSA §6171-A, sub-§§4-A and 5-A are enacted to read:

4-A. Emergency rules. The commissioner may adopt or amend rules under emergency procedures if immediate action is necessary to prevent serious economic dislocation to the area in which marine resources are harvested.

5-A. Procedure. The procedures of subchapter II shall be used in adopting or amending rules authorized by this section.

Sec. 4. 12 MRSA §6192, sub-§1, as amended by PL 1983, c. 645, §2, is further amended to read:

1. **Procedures.** In an emergency adoption or amendment, the commissioner may modify the procedures required under the Maine Administrative Procedure Act and section 6191 in the following manner.

A. In an emergency adoption or amendment of regulations rules relating to the public health and safety, including regulations rules authorized under section 6172, prior public notice and hearing shall not be required.

B. In an emergency adoption or amendment of regulations rules relating to the general welfare, as authorized by section 6171, the regulation rule shall be effective immediately, as provided in subsection 4, ~~but~~ a. A public hearing shall be held in the affected area immediately thereafter if requested of the commissioner in writing by 5 persons. The hearing shall be held within 30 days of the commissioner receiving the written request. Notice of that hearing shall be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area.

C. In an emergency adoption or amendment of rules relating to gear conflicts, as authorized by section 6171-A, the regulation shall be effective immediately, as provided in subsection 4. Prior public notice and hearing shall not be required. Notwithstanding any other provisions of law, a public hearing shall be held in the affected area immediately if requested of the commissioner in writing by 5 persons. The hearing shall be held within 30 days of the commissioner receiving the written request. Notice of that hearing shall be published once, not less than 5 days prior to the hearing, in a newspaper of general circulation in the affected area. The commissioner shall decide within 5 business days after the hearing whether to continue or repeal the emergency closure. His findings of fact must include the justification for the repeal or continuance of the closure, an analysis of the objections expressed at the public hearing and the date for the end of the closure. Emergency regulations under this paragraph may be repealed by the advisory council.

Effective September 29, 1987.

CHAPTER 101

H.P. 322 — L.D. 421

AN ACT Relating to Lobster Trap Vents.

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

12 MRSA §6433, sub-§1, ¶A, as repealed and replaced by PL 1979, c. 353, §1, is amended to read:

A. A rectangular or oblong escape vent not less than 1 3/4 inches (44.5 mm.) by ~~6 inches (152.5 mm.)~~ 5.75 inches (146 mm.) located next to the bottom edge;

Effective September 29, 1987.