

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

at the time of the failure to pay the motor vehicle was under the custody or control of a person other than the dealer or transporter, and if the dealer or transporter provides the authority with the name and address of the person who had custody or control over the motor vehicle at the time of the failure to pay, then that person and not the dealer or transporter is liable under this subsection.

(4) If a report that the motor vehicle was stolen is given to a law enforcement officer or agency before the failure to pay occurs or within a reasonable time after the registered owner becomes aware of the theft, then the registered owner is not liable under this subsection.

F. Nothing in this subsection may be construed to limit the liability of an operator of a motor vehicle for a failure to pay an authority toll. If a person who is liable for a failure to pay under this subsection was not the operator of the motor vehicle at the time of the failure to pay, that person may maintain an action for indemnification against the operator to recover all tolls and civil penalties under this subsection paid by that person.

G. If a registered owner does not satisfy a judgment under this subsection within 30 days after final adjudication of liability under paragraph C, in addition to any other method for enforcing the judgment, upon petition by the authority, the adjudicating court shall order the suspension of the registration for the vehicle involved in the failure to pay and forward the suspension to the Secretary of State. The Secretary of State shall proceed, in accordance with Title 29, section 55-B, to mail the required 10-day notice and suspend the registration certificate and plates issued for the vehicle in question. A notice under this paragraph is not effective with respect to a vehicle described in paragraph E, subparagraphs (1) to (4).

This subsection takes effect July 1, 1995.

**2-B. Admissibility of photo-monitoring evidence.** A photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring device is admissible in a proceeding to collect a toll or other charge of the authority, to collect civil penalties imposed under subsection 2-A or to impose civil or criminal liability for a failure to pay the toll or charge.

A. An original or facsimile of a certificate, sworn to or affirmed by an agent of the authority that states that a failure to pay has occurred and

states that it is based upon a personal inspection of a photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring system, as defined in subsection 2-A, is prima facie evidence of the facts contained in the certificate.

B. Notwithstanding any other provision of law, a photograph, micro-photograph, videotape or other recorded image prepared for enforcement of authority tolls is for the exclusive use of the authority in the discharge of its duties under this section. The material is not available to the public and, except as provided in this subsection or as may be necessary to prove a claim for indemnification under subsection 2-A, paragraph H, may not be used in a court in an action or proceeding.

This subsection takes effect July 1, 1995.

**Sec. 3. 29 MRSA §55-B**, as amended by PL 1989, c. 866, Pt. A, §1 and Pt. B, §26, is further amended by adding at the end a new paragraph to read:

Upon receipt of an order of suspension from the court in accordance with Title 23, section 1980, subsection 2-A, paragraph G, the Secretary of State shall promptly mail a notice to the person liable under that subsection for unpaid Maine Turnpike Authority tolls warning the person that, if the amount due the Maine Turnpike Authority is not paid within 10 days from the date of mailing the notice, suspension of the registration certificate and plates issued for the vehicle in question will result. If the person fails to pay the required amount within 10 days after mailing of the notice, the Secretary of State shall suspend, pursuant to chapter 17, the registration certificate and plates issued for the vehicle in question. This paragraph takes effect July 1, 1995.

See title page for effective date.

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## CHAPTER 699

### H.P. 1273 - L.D. 1717

#### An Act to Amend the Laws Relating to Potatoes

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas**, this legislation amends laws to improve the potato industry, an important agricultural industry in the State; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 7 MRSA §956, 2nd ¶**, as enacted by PL 1985, c. 655, §2, is amended to read:

Any person who refuses or interferes with access by the commissioner or ~~his~~ the commissioner's representative as provided for in this section, following oral request and warning given by the commissioner or ~~his~~ the commissioner's representative regarding the contents of this section, ~~shall be~~ is guilty of a separate civil violation under section 957; ~~provided that oral request and warning by the commissioner or his representative shall substitute for a first violation warning under section 957, subsection 1, and any continued refusal or interference shall be subject to the civil penalties as provided in section 957, subsection 2.~~

**Sec. 2. 7 MRSA §957, sub-§1**, as repealed and replaced by PL 1981, c. 513, §6, is repealed.

**Sec. 3. 7 MRSA §957, sub-§§1-A and 1-B** are enacted to read:

**1-A. Penalty.** The following civil penalties apply:

A. For the first violation committed during a shipping season, a forfeiture of not more than \$200;

B. For the 2nd violation committed during a shipping season, a forfeiture of \$1,000; and

C. For the 3rd and subsequent violations committed during a shipping season, a forfeiture of not less than \$1,500.

**1-B. Mandatory inspection.** After notice and an opportunity for hearing in an adjudicatory proceeding in accordance with the Maine Administrative Procedure Act, the commissioner may order a person the commissioner finds has violated this chapter 3 or more times in a shipping season to undergo mandatory inspection in the manner provided in section 446 for a period of one year from the date of the final administrative determination. If the inspection order is stayed during appeal of the administrative determination, the period of the stay is not counted in calculating the one-year period. A person subject to mandatory inspection under this subsection may not ship potatoes packed in consumer packs unless the

packs are accompanied by an unrestricted, original certificate of inspection covering the entire manifest, or an original or a copy of a certificate of inspection positively identifying the actual bags or containers in the shipment. Shipment of potatoes without the certificate required by this subsection is a separate violation subject to the penalties provided by this section.

**Sec. 4. 7 MRSA §957, sub-§2**, as repealed and replaced by PL 1981, c. 513, §6, is repealed.

**Sec. 5. 7 MRSA §973, first ¶**, as repealed and replaced by PL 1989, c. 502, Pt. B, §3, is amended to read:

There is created a fund to be known as the Potato Marketing Improvement Fund, to which shall be credited all. All funds received by the commissioner from any source for the development and implementation of an improved storage, packing and marketing program must be credited to the fund. Any money credited to the Potato Marketing Improvement Fund from the issuance of bonds on behalf of the State for agricultural development shall may be used only for the purposes of state loans as prescribed by section 974-A, to provide assistance to farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities and to pay the administrative costs of processing loan applications, to the extent that the costs exceed the fee for administrative costs established by section 974-A, subsection 2. Repayment of these loans and interest thereon shall on the loans must be credited to the Potato Marketing Improvement Fund to be available for making additional state loans for the same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by section 975 975-A. In order to provide additional amounts for loans, the commissioner, at the commissioner's discretion, may take such actions and enter into such agreements as may be necessary to sell or assign up to \$2,000,000 in the aggregate principal amount of loans and undivided interests in a pool of loans and assign or pledge any mortgage or other security to the Finance Authority of Maine, under terms and conditions the commissioner considers advisable. The assignment and related transactions may not result in indebtedness of the State. The proceeds of the sale or assignment must be credited to the Potato Marketing Improvement Fund and used for the purposes authorized in this section.

**Sec. 6. 7 MRSA §1036, sub-§3**, as repealed and replaced by PL 1987, c. 754, §5, is amended to read:

**3. Penalty.** Any person who violates subsection 1 or 2-A is subject to section 957 and any person who

violates subsection 2 is subject to the following civil penalties and administrative action:

- A. For the first violation, a forfeiture of \$500;
- B. For the 2nd violation, a forfeiture of \$1,000; and
- C. For the 3rd and subsequent violations, no less than \$1,000 ~~\$1,500~~. ~~After notice and opportunity for hearing are provided by the commissioner in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, for adjudicatory proceedings, the violator shall, for a period of one year from the date of the violation, be subject to mandatory inspection in the manner provided in section 446.~~

After notice and an opportunity for hearing in an adjudicatory proceeding in accordance with the Maine Administrative Procedure Act, the commissioner may order a person the commissioner finds has violated subsection 2 3 or more times in a shipping season to undergo mandatory inspection in the manner provided in section 446 for a period of one year from the date of the final administrative determination. If the inspection order is stayed during appeal of the administrative determination, the period of the stay is not counted in calculating the one-year period. A person subject to mandatory inspection under this subsection may not ship potatoes packed in consumer packs unless the packs are accompanied by an unrestricted, original certificate of inspection covering the entire manifest, or an original or a copy of a certificate of inspection positively identifying the actual bags or containers in the shipment. Shipment of potatoes without the certificate required by this subsection is a separate violation subject to the penalties provided by this subsection.

**Sec. 7. Exploration of special utility rate for off-grade potato processors.** The Public Utilities Commission, any electric utility providing service to Aroostook County and the Department of Agriculture, Food and Rural Resources shall explore the development of a special rate for electricity used by any processor in Aroostook County exclusively for the processing of off-grade potatoes. Any special rate proposal developed under this section may not require an electric utility to offer that rate to a customer engaged in the processing of off-grade potatoes under the utility's standard rate schedule. For purposes of this section, "off-grade potatoes" means those potatoes that fail to meet minimum grade requirements as established by the United States Department of Agriculture for U.S. #2 processing rate potatoes.

**Sec. 8. Study commission established.** The Commission to Study Potato Quality Issues is established to study the management and operation of the

quality inspection program. The commission consists of 9 members.

1. Five members are appointed jointly by the President of the Senate and the Speaker of the House of Representatives as follows: 3 Legislators, one member representing the Maine State Employees Association and one member representing the Agricultural Bargaining Council.

2. Three members are selected by the Governor from a list of nominees provided by the Maine Potato Board. The list provided by the Maine Potato Board must contain 2 nominees from each of the following: the Table Stock Executive Council, the Dealers' Executive Council and the Maine Potato Quality Control Board. The Governor shall select 3 of the nominees, one from each council and one from the board.

3. One member is the Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee.

4. All appointments are made by the President of the Senate and the Speaker of the House of Representatives and must be made no later than 30 days from the effective date of this section. The first meeting of the commission must be no later than 15 days following the completion of appointments. The President of the Senate and the Speaker of the House of Representatives shall elect a chair from among the members.

5. The duties of the commission are to study methods that would improve the efficiency of the inspection program, increase the use of inspection services and reduce costs. In conducting the study, the commission may:

- A. Hold public hearings;
- B. Meet at such times and places as the commission determines necessary and hold informational sessions for discussions with knowledgeable persons;
- C. Conduct, summarize and analyze the results of a literature search of data pertaining to potatoes;
- D. Conduct, tabulate and analyze the results of a survey of the public or affected persons and groups;
- E. Conduct legal research and prepare opinions on legal questions within the scope of the study; and
- F. Determine and summarize the legislative actions or governmental programs undertaken in

other jurisdictions related to issues within the scope of the study.

6. The Legislative Council shall provide staff assistance upon the request of the commission, including assistance in preparing any recommended legislation.

7. The members of the commission are not entitled to compensation other than reimbursement for expenses, as defined in the Maine Revised Statutes, Title 5, chapter 379, upon application to the Executive Director of the Legislative Council.

8. The commission shall submit its report, together with any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over agriculture matters no later than April 15, 1995.

**Sec. 9. Transfer of funds.** Notwithstanding the provisions of the Maine Revised Statutes, Title 5, section 1585, no later than April 15, 1994, the Department of Agriculture, Food and Rural Resources shall transfer up to \$3,500 from the Maine Potato Board to the Legislature toward the actual expenses incurred by the Commission to Study Potato Quality Issues.

**Sec. 10. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Marketing Services - Agriculture**

All Other	\$3,000
Provides for the allocation of funds for additional operating costs of the Branding Law Program.	

**DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES**

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**TOTAL** \$3,000

**LEGISLATURE**

**Commission to Study Potato Quality Issues**

All Other	\$3,500
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Provides for the allocation of funds to cover the operating expenses of the Commission to Study Potato Quality Issues.

**LEGISLATURE**

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**TOTAL** \$3,500

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**TOTAL ALLOCATIONS** \$6,500

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 15, 1994.

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**CHAPTER 700**

**S.P. 655 - L.D. 1824**

**An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State**

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

**Sec. 1. 5 MRSA §20065, sub-§4, ¶A,** as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

A. The terms of the 8 5 public members ap-  
pointed under subsection 3, paragraph J are staggered. Of the initial appointees under that paragraph, 3 2 are appointed for terms of 3 years, 3 2 for terms of 2 years and 2 one for ~~terms~~ a term of one year. Thereafter, all appointments are for terms of 3 years, except that a member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term. Members hold office until the appointment and confirmation of their successors. A public member may not be appointed for more than 2 consecutive, 3-year terms.

**Sec. 2. 5 MRSA §20065, sub-§4, ¶C,** as enacted by PL 1993, c. 410, Pt. LL, §12, is repealed.

**Sec. 3. PL 1993, c. 410, Pt. LL, §14** is amended to read: