

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 1
CONSTITUTION

Titles 1 to 10



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
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CHAPTER 103

PRODUCTS CONTROLLED

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SUBCHAPTER I

APPLES

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§ 531. Definitions

For the purpose of this subchapter, apples packed in a closed package or container or sold at retail in bulk or in an open package or container shall be deemed to be adulterated if their meas-

ure, quality, grade or purity do not conform in each particular to the claims made upon the affixed guaranty, and shall be deemed to be misbranded:

1. Container fails to bear all statements. If the package or container, whether open or closed, fails to bear all statements required by section 534;

2. False or misleading statements. If the package or container, whether open or closed, bears any statement, design or device regarding such article or its contents which shall be false or misleading in any particular or is falsely branded in any particular.

R.S.1954, c. 32, § 272.

§ 532. Standard box for apples

The standard box for apples shall have the following inside dimensions when measured without distention of parts: length, 17 inches; width, 13 inches; height, 11 inches. A box having a capacity of 2,431 cubic inches shall be a lawful box.

R.S.1954, c. 32, § 268.

§ 533. Standard grades established

The grades for apples recommended by the United States Department of Agriculture and recognized in the central markets of the country as government grades and such other grades or standards as may be promulgated by the commissioner under sections 441 to 447, are made the official state grades for apples of the State presented for intrastate or interstate shipment. All containers as presented for shipment whether by truck, train or boat shall have written, stamped or attached thereon the provisions required in section 534.

R.S.1954, c. 32, § 269; 1957, c. 223, § 2.

§ 534. Labels; sales in bulk or open package

Every closed package or container of apples, which is packed, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the State by any person shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the name and address of the owner or shipper of the apples at the time of packing, the name of the variety, the class or grade of the apples contained therein and the minimum size or the numerical count of the ap-

ples in the packages, together with the minimum volume of the apples in the container. If the apples were grown in Maine, that fact shall be plainly designated.

All apples sold, offered, exposed or advertised for sale at retail in bulk or in open packages or containers shall be plainly and conspicuously marked and identified as to variety and grade.

R.S.1954, c. 32, § 270; 1961, c. 32, § 1.

§ 535. Prohibitions

No person shall, within this State, pack, sell, distribute, transport, offer or expose for sale, distribution or transportation apples which are adulterated or misbranded within the meaning of section 531.

R.S.1954, c. 32, § 271.

§ 536. Advertising

When apples are advertised for sale by radio, television, newspapers or any other medium in which the price is to be quoted, such advertisement must state the correct grade, size and variety.

No signs, flyers, advertisements or false labels shall be used to sell or offer for sale or expose for sale any apples which do not conform to the standards as established in section 533. When signs, flyers or posters are used to advertise the price of apples, the variety, size or numerical count, and grade must be shown on such signs, flyers and posters.

1957, c. 223, § 3; 1961, c. 32, § 2.

§ 537. Sale and movement of apples

No person, firm or corporation shall within this State sell, distribute, transport, offer or expose for sale, distribution or transportation any apples that do not conform to the apple grades established in section 533. Nothing in this section shall apply to any person, firm or corporation supplying apples consigned to a processing plant for use therein. No provisions of this subchapter shall be construed to prevent a grower or shipper of apples from delivering the same to a packing house for grading or to a processing plant or cold storage plant where apples are stored and prepared for market. Apples which do not meet the established grades or classifications as provided by section 533 may be sold as culls provided the package or container

is conspicuously marked with the word "Culls". The commissioner shall diligently enforce this section and in person or by deputy shall have free access, ingress and egress at all reasonable hours to any place or any building wherein apples are stored, transported, sold, offered or exposed for sale or for transportation. He may in person or by deputy upon tendering the market price take samples of apples therefrom.

R.S.1954, c. 32, § 273; 1957, c. 223, § 4.

§ 538. Guaranty bar to prosecution

No person shall be prosecuted under this subchapter if he can establish a guaranty, signed by the person from whom he received any such article, to the effect that the same is not adulterated or misbranded within the meaning of section 531. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under this subchapter.

R.S.1954, c. 32, § 276.

§ 539. Sale, exchange or transport of "controlled atmosphere" apples

No person shall sell or exchange or offer or expose for sale or exchange or transport for sale any apples represented as having been exposed to "controlled atmosphere," "modified atmosphere," alone or with other words, or shall so use any such term or form of words or symbols of similar import on any container or lot of apples advertised, sold, offered for sale or transported for sale within this State unless such apples have been kept in a room or storage building with not more than 5% oxygen for a minimum of 90 days.

1961, c. 31.

§ 540. Registration

Any person owning or operating a controlled atmosphere room or storage building or packers or repackers of apples coming under section 539 shall register with the commissioner on a form prescribed by the commissioner. The registration period shall commence on August 1st and end on July 31st of each year. Owners or operators of such a room or storage building shall register on or before August 1st of each year.

The commissioner shall assign each approved registrant a registration number preceded by the letters "Maine C. A." This number shall be clearly marked on all containers coming under section 539 and shall be in accordance with all provisions of law pertaining to markings for apples.

1961, c. 31.

§ 541. Air components determinations

Each owner or operator shall make the required air components determinations daily. The percent of oxygen shall be reduced to 5% within 20 days after date of sealing.

1961, c. 31.

§ 542. Records

A record on a form approved by the commissioner shall be kept at a convenient location adjacent to said room or storage building from the day of sealing to the day of opening of said room or storage building, and shall be subject to review by the commissioner or his authorized agents at any time for a period of at least one year. It shall include owner or operator's name and address, room number, date of sealing, date of opening, capacity in bushels, lot identification, number of bushels within each lot, daily air components determination recordings showing date of test, time of test, percentage of carbon dioxide, percentage of carbon dioxide and oxygen, percentage of oxygen, temperature and comments.

Each owner or operator shall submit to the department, within 20 days after date of sealing, a report in writing for each room showing room number, date of sealing and number of bushels contained therein.

1961, c. 31.

§ 543. Access

The commissioner, in person or by deputy, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein apples are packed, stored, transported, sold, offered or exposed for sale or for transportation. He may, in person or by deputy, open any box or other container and may, upon tendering the market price, take samples therefrom.

R.S.1954, c. 32, § 274.

§ 544. Penalties

Whoever adulterates or misbrands apples within the meaning of section 531, or whoever packs, sells, distributes, transports, offers or exposes for sale, distribution or transportation apples in violation of any provision of this subchapter shall be punished by a fine of not more than \$100 for the first offense and by a fine of not more than \$200 for each subsequent offense.

R.S.1954, c. 32, § 275.

SUBCHAPTER II**ECONOMIC POISONS**

Sec.

- 581. Title.
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- 583. Rules and regulations.
- 584. Registration.
- 585. Corrections; protests.
- 586. Exceptions; renewal; fees.
- 587. Prohibitions.
- 588. Exemptions.
- 589. Cooperation with Federal Government and other states.
- 590. Seizure; forfeiture.
- 591. Penalties.

§ 581. Title

This subchapter shall be known and may be cited as the "Maine Economic Poisons Law."

R.S.1954, c. 32, § 237.

§ 582. Definitions

As used in this subchapter, the following words and phrases shall have the following meanings:

1. Active ingredient. "Active ingredient" means:

A. In the case of an economic poison other than a plant regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel or mitigate insects, nematodes, fungi, rodents, weeds or other pests;

B. In the case of a plant regulator, an ingredient which, through physiological action will accelerate or retard the rate of growth or rate of maturation or otherwise alter the

behavior of ornamental or crop plants or the produce thereof;

C. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

D. In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

1961, c. 56, § 1.

2. Adulterated. "Adulterated" shall apply to economic poison if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

3. Antidote. "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

4. Commissioner. "Commissioner" means the Commissioner of Agriculture or his authorized agents.

1961, c. 56, § 1.

5. Defoliant. "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

1961, c. 56, § 1.

6. Desiccant. "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

1961, c. 56, § 1.

7. Device. "Device" means any instrument or contrivance intended for trapping, destroying, repelling or mitigating insects or rodents or destroying, repelling or mitigating fungi, weeds, nematodes or such other pests as may be designated by the commissioner, but not including equipment used for the application of economic poisons when sold separately therefrom.

1961, c. 56, § 1.

8. Economic poison. "Economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, nematodes, fungi, weeds or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the

commissioner shall declare to be a pest and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

1961, c. 56, § 1.

9. Fungi. "Fungi" means all non-chlorophyll-bearing thallophytes, that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living man or other animals.

10. Fungicide. "Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

11. Herbicide. "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

12. Inert ingredient. "Inert ingredient" means an ingredient which is not an active ingredient.

13. Ingredient statement. "Ingredient statement" means either a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients in the economic poison, which ingredient statement must be used if the preparation is highly toxic to man; or a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients if there are any in the economic poison; and in addition, in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

14. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, as beetles, bugs, bees and flies, and to other allied classes of arthropods whose members are wingless and usually have more than 6 legs, as spiders, mites, ticks, centipedes and wood lice.

15. Insecticide. "Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.

16. Label. "Label" means the written, printed or graphic matter on, or attached to, the economic poison or device or the

immediate container thereof, and the outside container or wrapper of the retail package of the economic poison or device.

1961, c. 56, § 1.

17. Labeling. "Labeling" means all labels and other written, printed or graphic matter upon the economic poison or device or any of its containers or wrappers accompanying the economic poison or device at any time to which reference is made on the label or in literature accompanying the economic poison or device, except when accurate, non-misleading reference is made to current official publications of the Federal Government, State Experiment Stations or any other similar federal or state institutions or official agencies authorized by law to conduct research in the field of economic poisons.

1961, c. 56, § 1.

18. Misbranded. "Misbranded" shall apply to any economic poison or device if:

A. Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

B. It is an imitation of or is offered for sale under the name of another economic poison or device;

C. The labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;

D. This labeling bears any reference to registration under this Title;

E. The label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;

F. The label of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement, unless the outside container or wrapper is of such material that the ingredient statement on the immediate container can be clearly read;

G. Any required word, statement or other information is not prominently placed on the label with such conspicuousness as compared with other words, statements, designs or graphic matter in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

H. In the case of an insecticide, rodenticide, fungicide, herbicide or nematocide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such economic poison;

I. In the case of a plant regulator, defoliant or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such economic poison. Physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations; or

J. Distributed in bulk and a written or printed statement of the information required on labels of economic poisons in packaged form does not accompany delivery and is not supplied to the purchaser at the time of delivery.

1961, c. 56, § 1.

19. Nematocide. "Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes.

1961, c. 56, § 1.

20. Nematode. "Nematode" means invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

1961, c. 56, § 1.

21. Person. "Person" means any individual, partnership, association, corporation or organized group of persons whether incorporated or not.

1961, c. 56, § 1.

22. Plant regulator. "Plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients,

trace elements, nutritional chemicals, plant inoculants and soil amendments.

1961, c. 56, § 1.

23. Registrant. “Registrant” means the person registering any economic poison pursuant to this subchapter.

1961, c. 56, § 1.

24. Rodenticide. “Rodenticide” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animal which the commissioner shall declare to be a pest.

25. Weed. “Weed” means any plant which grows where not wanted. (1961, c. 56, § 1.)

R.S.1954, c. 32, § 238; 1961, c. 56, § 1.

§ 583. Rules and regulations

The commissioner is authorized to make necessary rules and regulations for carrying out this subchapter, including rules and regulations providing for the collection and examination of samples of economic poisons or devices; and, after opportunity for a hearing, to declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles or substances; to determine whether economic poisons are highly toxic to man; to determine standards of coloring or discoloring for economic poisons; and to subject economic poisons to all the requirements of this Title.

R.S.1954, c. 32, § 242; 1961, c. 56, § 2.

§ 584. Registration

Every economic poison which is distributed, sold or offered for sale within this State, or delivered for transportation or transported in intrastate or interstate commerce, shall be registered in the office of the commissioner.

The registrant shall file with the commissioner a statement including the name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant; the name of the economic poison; a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use; and, if requested by the commissioner, a full description of the tests made and the results thereof upon which the claims are based.

Whenever he deems it necessary, the commissioner may require the submission of the complete formula of any economic poison. If it appears to the commissioner that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of this Title, he shall register the article.

R.S.1954, c. 32, §§ 239, 241.

§ 585. Corrections; protests

If it does not appear to the commissioner that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with this Title, he shall so notify the registrant and afford him an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the article be registered, the commissioner shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with this Title. In order to protect the public, the commissioner, on his own motion, may at any time cancel the registration of an economic poison and, in lieu thereof, issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under this Title.

R.S.1954, c. 32, § 240.

§ 586. Exceptions; renewal; fees

Registration is not required in the case of an economic poison shipped from one plant within this State to another plant within this State operated by the same person.

The registrant shall pay to the commissioner an annual registration fee of \$5 for each economic poison registered. Such registration shall expire on December 31st and shall be renewed annually.

R.S.1954, c. 32, § 241.

§ 587. Prohibitions

It shall be unlawful for any person to distribute, sell or offer for sale within this State or deliver for transportation or transport in intrastate or interstate commerce:

1. Change in labeling or formula. Any economic poison which has not been registered pursuant to this subchapter, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration. In the discretion of the commissioner a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product;

2. Label and container. Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing the name and address of the manufacturer, registrant or person for whom manufactured; the name, brand or trademark under which said article is sold; and the net weight or measure of the content; subject to such reasonable variations as the commissioner may permit;

3. Toxic substances. Any economic poison which contains any substance in quantities highly toxic to man as determined by the commissioner, unless the label shall bear, in addition to any other required matter: The skull and crossbones; the word "POISON" in red, prominently displayed on a background of distinctly contrasting color; and a statement of an antidote for the economic poison;

4. Coloring or discoloring. The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate or barium fluosilicate, unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this Title, or any other white powder economic poison which the commissioner, after investigation and public hearing, by regulation requires to be colored or discolored, unless it has been so colored or discolored. The commissioner may exempt from such coloring or discoloring any eco-

conomic poison intended for a particular use or uses when he deems the same is not necessary for the protection of the public health;

5. Adulterated or misbranded. Any economic poison which is adulterated or misbranded or any device which is misbranded. 1961, c. 56, § 3.

It shall be unlawful for any person to detach, alter, deface or destroy, in whole or in part, any label or labeling provided for or regulations promulgated, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this subchapter.

It shall be unlawful for any person to use for his own advantage or to reveal, other than to the commissioner or proper officials or employees of the State, or to the courts of this State in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired under this subchapter.

R.S.1954, c. 32, § 243; 1961, c. 56, § 3.

§ 588. Exemptions

The penalties provided for violations of this subchapter shall not apply to:

1. Carrier. Any carrier while lawfully engaged in transporting an economic poison within this State, if such carrier shall, upon request, permit the commissioner or his duly authorized agent to copy all records showing the transactions in and movement of the articles;

2. Public officials. Public officials of this State and the Federal Government engaged in the performance of their official duties;

3. Manufacturer or shipper for experimental use. The manufacturer or shipper of an economic poison for experimental use only by or under supervision of an agency of this State or of the Federal Government authorized by law to conduct research in the field of economic poisons, or by others if the economic poison is not sold and if the container thereof is plainly and conspicuously marked "FOR EXPERIMENTAL USE ONLY—NOT TO BE SOLD," together with the manufacturer's name and address. If a written permit has been obtained from the commissioner, economic poisons may be sold for experimental purposes

subject to such restrictions and conditions as may be set forth in the permit;

4. Manufacturer or shipper for export. The manufacturer or shipper of an economic poison intended solely for export to a foreign country, when the same is prepared or packed according to the specifications or directions of the purchaser. If not so exported, such penalties shall apply.

R.S.1954, c. 32, § 244.

§ 589. Cooperation with Federal Government and other states

In order to avoid confusion endangering the public health resulting from diverse requirements, particularly as to the labeling and coloring of economic poisons; to avoid increased costs to the people of this State due to the necessity of complying with diverse requirements in the manufacture and sale of such poisons; and to secure uniformity between the requirements of the several states and the Federal Government relating to such poisons, the commissioner is authorized to cooperate with and, after due public hearing, to adopt such rules and regulations, applicable to and in conformity with the primary standards established, as have been or may be prescribed by the Federal Government or any other state, or agency thereof, with respect to economic poisons or devices.

R.S.1954, c. 32, § 247; 1961, c. 56, § 5.

§ 590. Seizure; forfeiture

Any economic poison or device that is distributed, sold, offered for sale within this State, or delivered for transportation or transported in intrastate or interstate commerce, not in compliance with this subchapter, shall be subject to seizure on complaint of the commissioner to any court of competent jurisdiction in the locality where it may be found. If the court finds the economic poison or device to be in violation of this subchapter, and orders its condemnation, it shall be denatured, processed, re-labeled, destroyed or otherwise disposed of as provided in this subchapter. In no instance shall the court order such disposition of economic poisons or devices without first having given the claimant an opportunity to apply to the court for the release of said economic poisons or devices or permission to process or relabel them to bring them into compliance with this subchapter.

R.S.1954, c. 32, § 246; 1961, c. 56, § 4.

§ 591. Penalties

Any person violating any of the provisions of this subchapter shall be punished by a fine of not more than \$100 for the first offense and for a 2nd offense within a period of 3 years by a fine of not less than \$100 nor more than \$500.

Notwithstanding any other provision of this section, any person, with intent to defraud, who uses or reveals information relative to formulas or products acquired under authority hereof shall be punished by a fine of not more than \$100 or by imprisonment for not more than one year, or by both.

R.S.1954, c. 32, § 245.

SUBCHAPTER III**EGGS****ARTICLE 1. GENERALLY**

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- 631. Definitions.
- 632. Labeling.
- 633. Standards of quality.
- 634. Grades; advertising.
- 635. Descriptive labels.
- 636. Exemptions.
- 637. Enforcement.
- 638. Jurisdiction and disposal of fines.
- 639. Penalties.

ARTICLE 2. STORAGE OR PROCESSED

- 640. Definitions.
- 641. Marking of stored or processed eggs.
- 642. Contents of invoice.
- 643. Penalties.

ARTICLE 1. GENERALLY**§ 631. Definitions**

Terms used in sections 631 to 639 shall be construed as follows unless a different meaning is clearly apparent from the language or context:

1. **Candling.** "Candling" means the common practice of examining the interior of an egg by holding and twirling the same before a light passing through an aperture in an opaque shield.

2. **Retail.** "Retail" means selling direct to consumer.

3. **Wholesale.** "Wholesale" means selling to retailers.

R.S.1954, c. 32, § 43.

§ 632. Labeling

All eggs sold or offered for sale for human consumption by any person, partnership, association, firm or corporation shall be labeled with the grade and size designation as set forth in the Maine consumer grades, except as otherwise provided.

R.S.1954, c. 32, § 39.

§ 633. Standards of quality

The standards of quality for Maine consumer grades for shell eggs, Grade AA, Grade A, Grade B and Grade C, that are or may be established by the commissioner, shall apply to all shell eggs sold or offered for sale. Any edible eggs not conforming to the specifications Maine Grade AA, A, B or C shall be sold as "checks," "cracks" or "dirties". The final determination of the grades shall be made by candling.

R.S.1954, c. 32, § 40; 1959, c. 335, § 1.

§ 634. Grades; advertising

The net weight and size requirements for Maine consumer grades for shell eggs shall be established by the commissioner and an advisory committee chosen by the Maine Poultry Improvement Association.

All advertising of such eggs shall include the correct size and grade designation in describing the eggs and the correct size and grade designation shall appear in clearly legible letters on the container in which such eggs are offered for sale. Each lot of eggs sold at wholesale shall be accompanied by an invoice stating both size and grade designation.

No signs, flyers, advertisements or false labels shall be used to sell or offer for sale or expose for sale any eggs which do not conform to the standards for quality and size for Maine consumer grades or established by the commissioner, or which do not conform to sections 631 to 639.

R.S.1954, c. 32, § 41.

§ 635. Descriptive labels

The terms "fresh eggs," "strictly fresh eggs," "henery eggs," "new-laid eggs," "farm fresh eggs," "selected eggs," "quality certified eggs," "nearby eggs," "native eggs" or words or descriptions of similar import shall not be used on any eggs which do not meet the minimum requirements for Maine consumer Grade A.

R.S.1954, c. 32, § 42.

§ 636. Exemptions

1. Sales directly by producers. Producers selling eggs of their own producing direct to consumer, cafe, hotel or institutional users are exempt from sections 631 to 639, except when they are marked as to grade, quality or size.

2. Sales by producer-shipper to shippers. All sales by a producer-shipper to other shippers are exempt except when they are marked as to grade, quality or size.

R.S.1954, c. 32, § 44; 1959, c. 335, § 2.

§ 637. Enforcement

The commissioner shall have authority to administer sections 631 to 639 and to make uniform rules and regulations for such administration. The commissioner may recover the penalties imposed for violations of sections 631 to 639 in a civil action brought in his own name, the venue to be as in other civil actions, and if he prevails in any such action, shall recover full costs, or he may prosecute for violation of said sections by complaint or indictment and such prosecution shall be commenced in the county in which the offense is committed.

R.S.1954, c. 32, § 45; 1961, c. 317, § 72.

§ 638. Jurisdiction and disposal of fines

The District Court and the Superior Court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by sections 631 to 639, and of prosecutions for violations thereof. All fines received under sections 631 to 639 by county treasurers shall be paid by them to the commissioner. All money received by the commissioner under said sections shall be paid by him to the Treasurer of State for deposit in the General Fund.

R.S.1954, c. 32, § 47; 1963, c. 402, § 57.

§ 639. Penalties

Any person, firm, partnership, association or corporation who shall violate any of the provisions of sections 631 to 639 or shall neglect or refuse to comply with the provisions thereof or any rule or regulation promulgated hereunder shall be punished by a fine of not more than \$50 for the first offense and not more than \$200 for each subsequent offense.

R.S.1954, c. 32, § 46.

ARTICLE 2. STORAGE OR PROCESSED

§ 640. Definitions

As used in this Title:

1. **Processed eggs.** "Processed eggs" shall be held to mean any shell eggs which in a way other than storage have been so treated as to keep them from natural deterioration.

2. **Storage eggs.** "Storage eggs" shall be held to mean any shell eggs that for a period of 30 days or over have been held in storage at a temperature of 45° Fahrenheit, or less.

3. **Word fresh prohibited.** No person, firm or corporation, selling or exposing for sale any shell eggs which have been in storage or in any way processed, shall use the word "fresh" in any combination of words to describe the character or value of such eggs.

R.S.1954, c. 32, § 204.

§ 641. Marking of stored or processed eggs

Any person, firm or corporation who exposes or offers for sale, either in any public place or elsewhere, any shell eggs which have been in storage or which in any way have been processed, shall conspicuously display upon the receptacle in which such shell eggs are offered for sale, or upon the package in which they are delivered to the purchaser, a notice containing the words "cold storage eggs" or "processed eggs" in accordance with the fact. In case any shell eggs which have been in storage or which have been processed are exposed for sale or offered for sale, in a manner which does not require a receptacle or package, the purchaser shall be informed definitely that such shell eggs are either cold storage or processed eggs, to the end that the purchaser may

have knowledge of the facts with reference to the storage or processing of such eggs.

R.S.1954, c. 32, § 205.

§ 642. Contents of invoice

Whenever any person, firm or corporation within this State ships or delivers to a purchaser within this State any shell eggs which have been in storage or processed, such person, firm or corporation shall deliver to the purchaser an invoice or bill showing thereon the character of such eggs. All containers of shell eggs deposited in cold storage shall be marked plainly with date of receipt and date of withdrawal by the officer, or his agents, in charge of the cold storage plant.

R.S.1954, c. 32, § 206.

§ 643. Penalties

Any person, firm or corporation who violates any provision of sections 640 to 642 shall, upon conviction, be liable to a fine of not more than \$50 or imprisonment for not more than 60 days, or by both, and the commissioner is expressly empowered to enforce said sections and to be vigilant in discovering violations thereof, and making complaint to the proper authorities.

R.S.1954, c. 32, § 207.

SUBCHAPTER IV**FEEDS**

Sec.

- 691. Title.
- 692. Definitions.
- 693. Registration.
- 694. Labeling.
- 695. Adulteration.
- 696. Misbranding.
- 697. Inspection, sampling and analysis.
- 698. Regulations, standards and definitions.
- 699. Detained commercial feeds.
- 700. Enforcement.
- 701. Penalties.

§ 691. Title

This subchapter shall be known as the “Maine Commercial Feed Law.”

1957, c. 331, § 1.

§ 692. Definitions

As used in this subchapter, the following words and phrases shall have the following meanings:

1. Brand. “Brand” means the term, design or trademark, and other specific designation under which an individual commercial feed is distributed in this State.

2. Commercial feed. “Commercial feed” means all materials which are distributed for use as feed for animals other than man except:

A. Unmixed whole seed and meals made directly from the entire seeds;

B. Unground hay;

C. Whole or ground straw, stover, silage, cobs and hulls when not mixed with other materials.

3. Commissioner. “Commissioner” means the Commissioner of Agriculture or his authorized agent.

4. Distribute. “Distribute” means to offer for sale, sell, barter or otherwise supply commercial feeds.

5. Distributor. “Distributor” means one who registers a commercial feed or feeds under this subchapter or who offers for sale, sells, barter or otherwise supplies commercial feeds.

6. Label. “Label” means a display of written, printed or graphic matter upon the container in which a commercial feed is distributed.

7. Official sample. “Official sample” means any sample of commercial feed taken by the commissioner.

8. Per cent or percentage. “Per cent” or “percentage” means percentage by weight.

9. Person. “Person” includes individual, partnership, corporation, firm, association and agent.

10. Sell or sale. “Sell” or “sale” includes exchange.

11. Ton. "Ton" means a net weight of 2,000 pounds avoirdupois.

1957, c. 331, § 1; 1959, c. 31, § 1.

§ 693. Registration

1. Application for registration. Each brand of commercial feed shall be registered before being offered for sale, sold or otherwise distributed in this State. The application for registration shall be submitted to the commissioner on forms furnished by the commissioner, and shall be accompanied by a fee of \$20 per brand, and if the commissioner so requests shall also be accompanied by a label or other printed matter describing the product. Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year unless sooner cancelled. The fees so collected by the commissioner shall be deposited with the Treasurer of State and appropriated for carrying out this subchapter, including the cost of inspection, sampling and analysis of commercial feed. Such funds shall not lapse, but shall remain a continuing carrying account.

The applications shall include the following information:

- A.** The name and principal address of the person guarantying the commercial feed;
- B.** The name or brand under which the commercial feed is to be sold;
- C.** The guaranteed analysis, listing the minimum percentage of crude protein, minimum percentage of crude fat and maximum percentage of crude fiber. For mineral feeds, the list shall include the following if added: Minimum and maximum percentage of calcium (Ca), minimum percentage of phosphorus (P), minimum percentage of iodine (I) and minimum and maximum percentages of salt (NaCl). Other nutritional substances or elements, determinable by laboratory methods, may be guaranteed by permission of the commissioner. When any such other items are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the commissioner. Products sold solely as mineral and vitamin supplements and guaranteed as specified in this section need not show guarantees for protein, fat and fiber;
- D.** The common or usual name of each ingredient used in the manufacture of the commercial feed.

2. Brand registered by another person. A distributor shall not be required to register any brand of commercial feed which is already registered by another person.

3. Changes in guarantee. Changes in the guarantee of either chemical or ingredient composition of a commercial feed may be permitted provided satisfactory evidence is submitted showing that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

4. Refusal and cancellation of registration. The commissioner is empowered to refuse registration of any application not in compliance with all provisions of this subchapter, and to cancel any registration when it is subsequently found to be in violation of any provision of this subchapter, or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of this subchapter, or regulations thereunder. No registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the commissioner.

1957, c. 331, § 1.

§ 694. Labeling

Any commercial feed offered for sale or sold or otherwise distributed in this State in bags, barrels or other containers shall have placed on or affixed to the container in written or printed form the net weight and the information required by section 693, subsection 1, paragraphs A, B, C and D.

If distributed in bulk, a written or printed statement of the net weight and the information required by section 693, subsection 1, paragraphs A, B, C and D shall accompany delivery and be furnished to the purchaser.

1957, c. 331, § 1.

§ 695. Adulteration

No person shall distribute an adulterated commercial feed. A commercial feed shall be deemed to be adulterated:

1. Injurious to animal health. If any material or substance is present in such amounts to render it injurious to animal health when fed in accordance with directions for use on the label, if there be one;

1959, c. 31, § 2.

2. Constituent omitted, abstracted or substituted. If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor;

3. Lower or different composition or quality. If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

4. Added material. If it contains added hulls, screenings, straw, cobs or other high fiber material unless the name of each such material is clearly and prominently stated on the label;

5. Weed seeds. If it contains more than 1% of weed seeds considered injurious to livestock or more than 15 viable weed seeds in the aggregate per ounce.

1957, c. 331, § 1; 1959, c. 31, § 2.

§ 696. Misbranding

No person shall distribute misbranded feed. A commercial feed shall be deemed to be misbranded:

1. False or misleading label. If its labeling is false or misleading in any particular;

2. Distributed under another name. If it is distributed under the name of another feed;

3. Container not labeled. If its container is not labeled as required in section 694 and in regulations prescribed under this subchapter;

4. Conformity with definition of identity. If it purports to be or is represented as a feed ingredient, or if it purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of identity, if any, prescribed by regulation of the commissioner; in the adopting of such regulations the commissioner shall give due regard to commonly accepted definitions such as those issued by the Association of American Feed Control Officials;

5. Statements on label placed conspicuously. If any word, statement or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood

by the ordinary individual under customary conditions of purchase and use;

6. Brand not registered. If it is a brand of commercial feed which is not registered with the commissioner and the prescribed fee paid in accordance with section 693.

1957, c. 331, § 1.

§ 697. Inspection, sampling and analysis

It shall be the duty of the commissioner to inspect and sample for analysis in accordance with section 485, commercial feeds distributed within this State at such time and place to such an extent as he may deem necessary to determine whether such commercial feeds are in compliance with this subchapter. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial feeds subject to this subchapter and the rules and regulations pertaining thereto.

The methods of sampling and analysis shall be those adopted from sources such as the Journal of the Association of Official Agricultural Chemists.

The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in section 692 and obtained and analyzed as provided for in the first 2 paragraphs of this section.

When the inspection and analysis of an official sample indicate a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the distributor or manufacturer. Upon request within 30 days, the commissioner shall furnish to the registrant a portion of the sample concerned.

1957, c. 331, § 1.

§ 698. Regulations, standards and definitions

The commissioner is charged with the enforcement of this subchapter and after due public hearing is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this subchapter. The commissioner is empowered to adopt regulations establishing definitions and standards for commercial feed in-

redients and such other regulations as may be necessary for the enforcement of any provision of this subchapter.

1957, c. 331, § 1.

§ 699. Detained commercial feeds

1. **“Withdrawal from sale” orders.** When the commissioner has reasonable cause to believe a commercial feed is being distributed in violation of any of the provisions of this subchapter, or of any of the prescribed regulations under this subchapter, he may issue and enforce a written or printed “withdrawal from sale” order warning the distributor not to dispose of the feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the commercial feed so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within 30 days, the commissioner may begin proceedings for condemnation.

2. **Condemnation and confiscation.** Any lot of commercial feed not in compliance with this subchapter shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this subchapter, and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State. In no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this subchapter.

1957, c. 331, § 1.

§ 700. Enforcement

This subchapter shall be administered by the Commissioner of Agriculture.

1957, c. 331, § 1.

§ 701. Penalties

Any person, firm or corporation violating any of the provisions of this subchapter, or any rule or regulation duly promul-

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gated thereunder, or neglecting or refusing to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the first offense and not more than \$200 for each subsequent offense.

Nothing in this subchapter shall be construed as requiring the commissioner to report for prosecution or for the institution of seizure proceedings as a result of minor violations of this subchapter when he believes that the public interests will be best served by a suitable notice of warning in writing.

1957, c. 331, § 1.

SUBCHAPTER V

FERTILIZERS

Sec.

- 741. Title.
- 742. Definitions.
- 743. Registration.
- 744. Labeling.
- 745. Inspection, sampling and analysis.
- 746. Misbranding.
- 747. Adulteration.
- 748. Regulations, standards and definitions.
- 749. Enforcement.
- 750. Penalties.

§ 741. Title

This subchapter shall be known as the “Maine Commercial Fertilizer Law”.

1959, c. 241, § 1.

§ 742. Definitions

When used in this subchapter:

1. Agricultural lime. “Agricultural lime” means any substance that contains calcium or magnesium intended or sold for fertilizing purposes or for neutralizing soil acidity, and shall include gypsum if intended for agricultural use.

2. Brand. “Brand” means a term, design or trademark used in connection with one or several grades of commercial fertilizer.

3. Bulk fertilizers. "Bulk fertilizers" means commercial fertilizer distributed in a non-packaged form.

4. Commercial fertilizer. "Commercial fertilizer" includes mixed fertilizer or fertilizer materials, or both.

5. Commissioner. "Commissioner" means the Commissioner of Agriculture or his authorized agent.

6. Distribute; distributor. "Distribute" means to offer for sale, sell, barter or otherwise supply commercial fertilizers. The term "distributor" means any person who distributes.

7. Fertilizer material. "Fertilizer material" means any substance containing nitrogen, phosphorus, potassium or any recognized plant nutrient element or compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

8. Grade. "Grade" means any commercial fertilizer having a specific and the same guarantee.

9. Guaranteed analysis. "Guaranteed analysis":

A. "Guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen (N)	per cent
Available Phosphoric Acid (P ₂ O ₅)	per cent
Soluble Potash (K ₂ O)	per cent
Magnesium (mg)	per cent

B. "Guaranteed analysis" in paragraph A includes:

(1) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphorus or phosphoric acid and the degree of fineness. For bone, tankage and other organic phosphatic materials, total phosphorus or phosphoric acid.

(2) Additional plant nutrients expressed as the elements, when permitted by the commissioner.

(3) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when permitted by regulation.

(4) For agricultural lime the minimum percentages of total calcium and total magnesium, and for gypsum the minimum percentage of calcium and sulfur.

10. Mixed fertilizers. “Mixed fertilizers” means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

11. Official sample. “Official sample” means any sample of commercial fertilizer taken by the commissioner.

12. Per cent or percentage. “Per cent” or “percentage” means the percentage by weight.

13. Person. “Person” includes individual, partnership, association, firm and corporation.

14. Registrant. “Registrant” means the person who registers commercial fertilizer under this subchapter.

15. Singular and plural. Words importing the singular number may extend and be applied to several persons or things and words importing the plural number may include the singular.

16. Ton. “Ton” means a net weight of 2,000 pounds avoirdupois.

1959, c. 241, § 1.

§ 743. Registration

Each brand and grade of commercial fertilizer shall be registered before being offered for sale, sold or distributed in this State. The application for registration shall be submitted to the commissioner on form furnished by the commissioner and shall be accompanied by a fee of \$9 per plant food element guaranteed. Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year. The application shall include the following information:

1. **Weight.** The net weight;
2. **Brand and grade.** The brand and grade;
3. **Analysis.** The guaranteed analysis;
4. **Registrant's name and address.** The name and address of the registrant.

The fees so collected by the commissioner shall be deposited with the Treasurer of State and appropriated for carrying out this subchapter, including the cost of inspection, sampling and analysis of commercial fertilizer. Such funds shall not lapse, but shall remain a continuing carrying account.

A distributor shall not be required to register any brand and grade of commercial fertilizer which is already registered under this subchapter by another person.

The plant nutrient content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration.

1959, c. 241, § 1.

§ 744. Labeling

Any commercial fertilizer distributed in this State in containers shall have placed on or affixed to the container a label setting forth in clearly legible form the information required by section 743, subsections 1 to 4.

If distributed in bulk, a written or printed statement of the information required by section 743, subsections 1 to 4, shall accompany delivery and be supplied to the purchaser at time of delivery.

1959, c. 241, § 1.

§ 745. Inspection, sampling and analysis

It shall be the duty of the commissioner to inspect and sample for analysis in accordance with section 485 commercial fertilizers distributed within this State at such time and place to such an extent as he may deem necessary to determine whether such commercial fertilizers are in compliance with this subchapter. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers, subject to this subchapter and the rules and regulations pertaining thereto.

The methods of sampling, sample preparation and analysis shall be those adopted from sources such as the Journal of the Association of Official Agricultural Chemists. The commissioner, in determining for administrative purposes whether a commercial fertilizer is deficient in any component, shall be guided solely by the official sample as defined and obtained and analyzed as provided for in this section.

When the inspection and analysis of an official sample indicate a commercial fertilizer has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the distributor or manufacturer. Upon request within 30 days, the commissioner shall furnish to the registrant a portion of the sample concerned.

1959, c. 241, § 1.

§ 746. **Misbranding**

No person shall distribute misbranded fertilizer. A commercial fertilizer shall be deemed to be misbranded:

1. **False or misleading statements.** If false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the commercial fertilizer;

2. **Distributed under another name.** If it is distributed under the name of another fertilizer;

3. **Container not labeled as required.** If its container is not labeled as required in section 744 and in regulations prescribed under this subchapter;

4. **Information required placed conspicuously.** If any word, statement or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

5. **Not registered and fee not paid.** If it is a grade of commercial fertilizer which is not registered with the commissioner and the prescribed fee paid in accordance with this subchapter.

1959, c. 241, § 1.

§ 747. **Adulteration**

No person shall distribute an adulterated commercial fertilizer. A commercial fertilizer shall be deemed to be adulterated:

1. **Quality, etc. not in conformity.** If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty;

2. **Deleterious materials.** If it contains any material in sufficient amount to be deleterious to growing plants;

3. **Other materials.** If it is found to contain any pulverized leather, hair, ground hoofs, horns, wool waste, peat, garbage tankage or any nitrogenous ingredients derived from any inert material whatsoever, unless the same has been so treated as to be available as plant food as determined by the methods adopted by the Association of Official Agricultural Chemists, without an

explicit printed statement of fact, conspicuously affixed to the package of such fertilizer and accompanying and going with every lot or package of the same, in which fertilizer the above named materials aid in making up the required or guaranteed analysis.

1959, c. 241, § 1.

§ 748. Regulations, standards and definitions

The commissioner is charged with the enforcement of this subchapter, and after due public hearing, is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this subchapter. The commissioner is empowered to adopt regulations establishing definitions and standards for commercial fertilizer ingredients and such other regulations as may be necessary for the enforcement of any provisions of this subchapter.

1. **“Withdrawal from sale” orders.** When the commissioner has reasonable cause to believe a commercial fertilizer is being distributed in violation of any of the provisions of this subchapter, or of any of the prescribed regulations under this subchapter, he may issue and enforce a written or printed “withdrawal from sale” order warning the distributor not to dispose of the fertilizer in any manner until written permission is given by the commissioner or the court. The commissioner shall release the commercial fertilizer so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within 30 days, the commissioner may begin proceedings for condemnation.

2. **Condemnation and confiscation.** Any lot of commercial fertilizer, not in compliance with this subchapter, shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial fertilizer is located. In the event the court finds the said commercial fertilizer to be in violation of this subchapter, and orders the condemnation of said commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the State. In no instance shall the disposition of said commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial fertilizer or for permission to proc-

ess or relabel said commercial fertilizer to bring it into compliance with this subchapter.

1959, c. 241, § 1.

§ 749. Enforcement

This subchapter shall be administered by the Commissioner of Agriculture.

1959, c. 241, § 1.

§ 750. Penalties

Any person, firm or corporation violating any of the provisions of this subchapter, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the first offense and not more than \$200 for each subsequent offense.

Nothing in this subchapter shall be construed as requiring the commissioner to report for prosecution or for the institution of seizure proceedings as a result of minor violations of this subchapter, when he believes that the public interests will be best served by a suitable notice of warning in writing.

1959, c. 241, § 1.

SUBCHAPTER VI

FLOUR, BREAD AND ROLLS

Sec.

791. Definitions.

792. Reinforcement of flour.

793. Vitamins and minerals in bread and rolls.

794. Enforcement.

795. Penalties.

§ 791. Definitions

When used in this subchapter, unless the context otherwise requires, the following words shall have the following meanings:

1. Flour. "Flour" includes and shall be limited to the foods commonly known in the milling and baking industries as:

A. White flour, also known as wheat flour or plain flour;

B. Bromated flour;

C. Self-rising flour, also known as self-rising white flour or self-rising wheat flour; and

D. Phosphated flour, also known as phosphated white flour or phosphated wheat flour;

but excludes whole wheat flour and also excludes special flours not used for bread, roll, bun or biscuit baking, such as specialty cake, pancake and pastry flours.

2. Persons. "Persons" means an individual, a corporation, a partnership, an association, a joint stock company, a trust or any group of persons whether incorporated or not, engaged in the commercial manufacture or sale of flour, white bread or rolls.

3. Rolls. "Rolls" includes plain white rolls and buns of the semi-bread dough type, namely: Soft rolls, such as hamburger rolls, hot dog rolls, Parker House rolls and hard rolls, such as Vienna rolls and Kaiser rolls, but shall not include yeast-raised sweet rolls or sweet buns made with fillings or coatings, such as cinnamon rolls or buns and butterfly rolls.

4. White bread. "White bread" means any bread made with flour whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as white bread, including Vienna bread, French bread and Italian bread.

This subchapter shall not apply to any flour manufactured in the State of Maine or to any breadstuff made therefrom.

R.S.1954, c. 32, § 194.

§ 792. Reinforcement of flour

It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale for human consumption in this State flour, unless the following vitamins and minerals are contained in each pound of such flour: Not less than 2.0 mg. and not more than 2.5 mg. of thiamine; not less than 1.2 mg. and not more than 1.5 mg. of riboflavin; not less than 16.0 mg. and not more than 20.0 mg. of niacin or niacin-amide; not less than 13.0 mg. and not more than 16.5 mg. of iron (Fe); except in the case of self-rising flour which in addition to the above ingredients shall contain not less than 500 mg. and not more than 1,500 mg. of calcium (Ca). The terms of this section shall not apply to flour sold to bakers or to manufacturers or processors who will use such flour to manufacture products other than white bread or rolls.

R.S.1954, c. 32, § 195.

§ 793. Vitamins and minerals in bread and rolls

It shall be unlawful for any person to manufacture, bake, sell or offer for sale for human consumption in this State any white bread or rolls, unless the following vitamins and minerals are contained in each pound of such bread or rolls: Not less than 1.1 mg. and not more than 1.8 mg. of thiamine; not less than 0.7 mg. and not more than 1.6 mg. of riboflavin; not less than 10.0 mg. and not more than 15.0 mg. of niacin; not less than 8.0 mg. and not more than 12.5 mg. of iron (Fe).

R.S.1954, c. 32, § 196.

§ 794. Enforcement

The commissioner is charged with the duty of enforcing this subchapter, and he is authorized and directed to make, amend or rescind rules, regulations and orders for the efficient enforcement of said subchapter.

Whenever the vitamin and mineral requirements set forth in this subchapter are no longer in conformity with the legally established standards governing the interstate shipment of enriched flour and enriched white bread or enriched rolls, the commissioner, in order to maintain uniformity between intrastate and interstate vitamin and mineral requirements for the foods within the provisions of this subchapter is authorized and directed to modify or revise such requirements to conform with amended standards governing interstate shipments. Any revisions in vitamin and mineral requirements established by the commissioner shall be reported to the Legislature.

In the event of findings by the commissioner that there is an existing or imminent shortage of any ingredient required by sections 792 or 793, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this subchapter, the commissioner shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls; and if he finds it necessary or appropriate, excepting such foods from labeling requirements until he issues a further order relative thereto. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. The commissioner on his own motion may, and upon receiving the sworn statements of 10 or more persons subject to this subchapter, that they believe such a shortage exists or is imminent shall, within 20 days there-

after, hold a public hearing with respect thereto, at which any interested person may present evidence; and shall make findings based upon the evidence presented. The commissioner shall publish notice of any such hearing at least 10 days prior thereto.

Whenever the commissioner has reason to believe that such shortage no longer exists, he shall hold a public hearing, after at least 10 days' notice shall have been given, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that such shortage no longer exists, he shall issue an order to become effective not less than 30 days after the publication thereof, revoking such previous order. Undisposed floor stocks of flour on hand at the effective date of such revocation order, or flour manufactured prior to such effective date for sale in this State, may thereafter be lawfully sold or disposed of.

All orders, rules and regulations adopted by the commissioner pursuant to this subchapter shall be published in the manner prescribed, and within the limits specified in said subchapter shall become effective upon such date as the commissioner shall fix.

Whenever, under this subchapter publication of any notice, order, rule or regulation is required, such publication shall be made at least twice in at least one daily newspaper of general circulation printed and published in this State.

For the purpose of this subchapter the commissioner, or such officers or employees under his supervision as he may designate, is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein, and all pertinent equipment, materials, containers and labeling.

R.S.1954, c. 32, § 197.

§ 795. Penalties

Any person who violates any of the provisions of this subchapter, or the orders, rules or regulations promulgated by the commissioner under authority thereof shall be punished by a fine of not more than \$100.

R.S.1954, c. 32, § 198.

SUBCHAPTER VII

FROZEN DAIRY PRODUCTS

Sec.

- 831. Title.
- 832. Definitions.
- 833. Rules and regulations.
- 834. License applications.
- 835. Fees.
- 836. Disposition of fees and fines.
- 837. Revocation or suspension of license.
- 838. Prohibitions.
- 839. Penalties.

§ 831. Title

This subchapter shall be known and may be cited as the “Maine Frozen Dairy Products Law.”

R.S.1954, c. 32, § 286.

§ 832. Definitions

As used in this subchapter, the following words and phrases shall have the following meanings:

1. Frozen dairy product mix. “Frozen dairy product mix” shall mean any unfrozen mixture to be used in the manufacture of frozen dairy products for sale or resale and shall contain in whole or in part the ingredients enumerated under the definition of frozen dairy products.

2. Frozen dairy products. “Frozen dairy products” shall mean the frozen products made from cream or a mixture of milk and cream or a combination of dairy products of equivalent composition, sweetened with sugar or other suitable sweetening agent and containing natural or imitation flavoring. Frozen dairy products shall include ice cream, frozen custard, ice milk, sherbet, ices and related food products, and frozen dairy product mix. They may or may not contain egg-yolk solids and may be frozen with or without agitation. They shall contain no fats or oils other than butter fat except those necessarily contained in the flavoring.

3. Frozen dairy products plant. “Frozen dairy products plant” shall mean any place, premises or establishment and any part thereof where frozen dairy products, such as ice cream,

frozen custard, ice milk, sherbet, ices and related food products are assembled, processed, manufactured or converted into form for distribution or sale, and rooms or premises where such frozen dairy products manufacturing equipment is washed, sterilized or kept.

4. Home made or home maid. "Home made" or "home maid" or similar terminology applied to these frozen dairy products shall mean frozen dairy products manufactured and frozen under conditions normally found in the home.

5. Retail manufacturer. "Retail manufacturer" shall mean any manufacturer of frozen dairy products who is not defined as a wholesale manufacturer.

6. Wholesale manufacturer. "Wholesale manufacturer" shall mean any person, firm, corporation, association or society who manufactures frozen dairy products, any of which are sold to another for resale, or who manufactures frozen dairy products mix within the State, or for sale within the State.

R.S.1954, c. 32, § 287.

§ 833. Rules and regulations

The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to this subchapter. Such rules and regulations shall establish sanitary regulations pertaining to the manufacture and distribution of frozen dairy products, including the construction, sanitary conditions of buildings, grounds and equipment where frozen dairy products are manufactured; sanitary conditions of persons in direct physical contact with frozen dairy products during manufacture; sanitary condition of containers in which frozen dairy products are held or shipped and the sanitary conditions of premises, buildings, surroundings and equipment where frozen dairy products are sold; and among other things, shall establish standards of strength, quality, purity and identity for frozen dairy products, including ice cream, frozen custard, ice milk, sherbet, ices and related food products. Such rules and regulations shall be filed and open for public inspection at the office of the commissioner and shall have the force of law.

R.S.1954, c. 32, § 293.

§ 834. License applications

Each manufacturer of frozen dairy products and frozen dairy product mix for sale shall, during the month of June in each year,

file with the commissioner an application for a license, upon a form prescribed by the commissioner. The application shall show the location of the plant at which frozen dairy products or frozen dairy product mix are to be manufactured and the name of the brand or brands, if any, under which the same are to be sold. The license shall be for 12 months, beginning July 1st. Each such license shall cover one group of buildings constituting a frozen dairy products plant in one location.

This section shall not apply to frozen dairy products:

1. State institutions and boardinghouses. Manufactured by any state institution or boardinghouse, such as homes for the aged and children, and served to patrons thereof for consumption on the premises where manufactured;

2. Churches and fraternal orders. Manufactured and sold by any church or religious organization, grange or similar fraternal order solely for the benefit of such organization;

3. Produced and sold on the premises. Manufactured and commonly called "home made" or "home maid," all the dairy products of which are produced on the premises where manufactured and sold;

provided in the above cases the milk products shall be produced from blood tested herds found to be free from Bang's disease and tuberculosis.

R.S.1954, c. 32, § 288.

§ 835. Fees

The commissioner, if satisfied that the frozen dairy products plant named in the application is maintained in accordance with the standards of sanitation and that only pure and wholesome ingredients produced under sanitary conditions are used as prescribed in the rules and regulations promulgated under this subchapter, shall issue a license for the manufacture of frozen dairy products and frozen dairy product mix. No license shall be issued if any statement in the application shall be false or misleading, or if the brand name or label or advertisement of the frozen dairy product and frozen dairy product mix involved in the application shall give a false indication of origin, character, composition or place of manufacture or shall be otherwise false or misleading in any particular.

The license fee for a retail manufacturer of frozen dairy products shall be \$2. The license fee for a wholesale manufac-

turer to manufacture frozen dairy products or frozen dairy product mix within the State, or to sell within the State, as the case may be, shall be \$10.

R.S.1954, c. 32, § 289.

§ 836. Disposition of fees and fines

All fees received by the commissioner under this subchapter shall be paid by him to the Treasurer of State. All fines, penalties and costs recovered under this subchapter shall accrue to the Treasurer of State and shall be paid into the treasury of the county where the offense is prosecuted. All fines and penalties recovered, and money received or collected, shall be paid to the Treasurer of State and all such fines and penalties, together with all fees, shall be credited to the department and shall be expended by the commissioner for the purposes of this subchapter.

R.S.1954, c. 32, § 290.

§ 837. Revocation or suspension of license

The commissioner shall have the power to revoke or suspend any license issued under this subchapter, when it appears that any statement upon which it was issued was false or misleading or that any frozen dairy product manufactured, sold, offered or exposed for sale, or held for sale by the licensee is adulterated or misbranded or is manufactured in a plant or transported in a vehicle or stored in equipment not maintained in accordance with the standards of sanitation prescribed by the rules and regulations promulgated by the commissioner or that the brand name or any label or advertising of any frozen dairy product manufactured, sold, offered or exposed for sale or held for sale with the licensee gives a false indication of origin, character, composition or place of manufacture or is otherwise false or misleading in any particular.

Any person, firm, corporation, association or society whose license has been revoked or suspended shall discontinue the manufacture of frozen dairy products or frozen dairy product mixes until this subchapter has been complied with and a new license issued or the suspension removed. Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected, stating that he contemplates the revocation or suspension of the same and giving his reasons therefor and appointing a time for hearing.

At the hearing the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the said commissioner shall decide whether the license shall be revoked or suspended or not. Any licensee who is aggrieved by the decision of the commissioner may, within 30 days thereafter, appeal to the Superior Court by filing a complaint. The court shall fix a time and place for hearing and cause notice thereof to be given to the said commissioner. After hearing, the court may affirm or reverse the decision of the commissioner and the decision of the court shall be final. Pending judgment of the court, the decision of the commissioner shall remain in full force and effect. The commissioner shall, within 3 days after notice of such appeal, forward to the court a certified copy of the proceedings.

R.S.1954, c. 32, § 291; 1961, c. 317, § 74.

§ 838. Prohibitions

No person shall sell, advertise or offer or expose for sale any frozen dairy product or frozen dairy product mix unless the manufacturer thereof shall be licensed under this subchapter. No person shall sell, offer for sale or advertise for sale any frozen dairy product or frozen dairy product mix if the label upon it or the advertising accompanying it shall give a false indication of the origin, character, composition or place of manufacture, or shall be otherwise false or misleading in any particular. No person shall sell, advertise or offer or expose for sale any frozen dairy product for which a standard has not been established by the commissioner, regardless of trade name or brand or coined name. No person shall sell or offer, advertise or expose for sale any frozen dairy product or frozen dairy product mix which does not conform to the standards of strength, quality, purity and identity now or hereafter to be fixed by the commissioner.

R.S.1954, c. 32, § 292.

§ 839. Penalties

Any person, firm or corporation violating any of the provisions of this subchapter, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the first offense nor more than \$200 for each subsequent offense.

R.S.1954, c. 32, § 294.

SUBCHAPTER VIII

HAY

Sec.

871. Marking of hay.

§ 871. Marking of hay

All hay pressed and put up in bales, except hay pressed by farmers and retailed from their own barns, shall have the first letter of the Christian name and the whole of the surname of the person putting up the same, written, printed or stamped on bands or boards made fast thereto, with the name of the state and the place where such person lives. Whoever offers for sale or shipment any pressed hay not so marked, except hay pressed by farmers and retailed from their own barns, forfeits \$1 for each bale so offered, to be recovered by complaint. No person who has received hay not marked as provided in this section shall defend any action for the price thereof upon that ground, unless he shall prove that, before the delivery of said hay to him, he requested the person from whom he bought the same to comply with this section.

R.S.1954, c. 32, § 187.

SUBCHAPTER IX

MINERAL OILS

Sec.

911. Definition.

912. Use restricted.

913. Penalties.

§ 911. Definition

The term "mineral oil" as used in this subchapter shall be held to mean a mixture of liquid hydrocarbons obtained from petroleum, liquid petrolatum or mineral oil.

R.S.1954, c. 32, § 191.

§ 912. Use restricted

No person shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of

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food which contains any mineral oil, except liquid food flavorings and the final products containing them.

R.S.1954, c. 32, § 192.

§ 913. Penalties

Any person, firm, corporation, association or society who manufactures, sells, distributes, transports, offers or exposes for sale, distribution or transportation any article of food containing mineral oil shall be punished by a fine of not more than \$100 for the first offense or for not more than \$200 for the 2nd offense.

R.S.1954, c. 32, § 193.

SUBCHAPTER X

POTATOES

ARTICLE 1. GRADING

Sec.

- 951. Grades.
- 952. Branding mandatory.
- 953. False or misleading branding.
- 954. Sale without grading by grower.
- 955. Exemptions.
- 956. Enforcement; jurisdiction.
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ARTICLE 2. MARKETING

- 991. Title.
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- 996. Expenses and assessments.
- 997. Regulation.
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- 999. Change of regulations.
- 1000. Reports.
- 1001. Compliance.
- 1002. Termination or change of marketing orders.
- 1003. Effect of termination or amendment.
- 1004. Duration of immunities.
- 1005. Personal liability of committee member.
- 1006. Penalties.
- 1007. Dumping of waste potatoes.

ARTICLE 1. GRADING

§ 951. Grades

The official state grades for potatoes shall be promulgated by the commissioner under sections 441 to 447 and made the official state grades for potatoes of the State presented for intra-state or interstate shipment and all containers as presented for shipment, whether by truck, train or boat, shall have written, stamped or attached thereon the name and address or serial number of the person producing or marketing the product, as well as the name and grade, State or Federal, of the product contained therein. No potatoes shall be offered for sale, had in possession for sale, prepared for sale, exposed for sale, sold, shipped, delivered for sale or consigned unless and until said potatoes shall have been graded or packed in conformity with sections 951 to 957. Potatoes purchased under the government support program shall be exempted from sections 951 to 957.

R.S.1954, c. 32, § 295; 1957, c. 104, § 1.

§ 952. Branding mandatory

It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant to any person, firm, association, organization or corporation to expose for sale, or sell, ship, deliver or consign or have in possession potatoes prepared for market unless such container has been legibly and conspicuously tagged, branded, labeled or stenciled before being removed from the premises where prepared for market with the name and address of the person or persons responsible for the grading and packing, and the name of the grade, net weight and the word "potatoes". It shall be unlawful for any person, firm, association, organization or corporation or agent, or representative, or assistant to any person, firm, association, organization or corporation to expose for sale or sell at wholesale or retail any potatoes unless the container in which such potatoes have been placed has been legibly and conspicuously tagged, branded, labeled or stenciled with the name and address of the person or persons responsible for the grading and packing and the names of the grade together with the true net contents of said container. Bulk shipments shall be accompanied by 2 cards not less than 4 by 6 inches in size, placed on the inside of car near each door. Likewise cards in size as described shall be prominently displayed on all bulk shipments made by truck or other conveyance. Upon

each card shall appear the name and address of the consignor, the name of the grade, the name of the loading station, the date of loading and the name and address of the consignee, if known. It shall be conclusive evidence that potatoes are for sale when contained in containers intended for delivery or transit, or when same are exposed for sale, or when the same are in the process of delivery or transit, or are located at a depot, station, boat dock or any place where potatoes are held in storage or for immediate or future sale or transit.

R.S.1954, c. 32, § 296; 1957, c. 104, § 2.

§ 953. False or misleading branding

No person, firm, association, organization or corporation or agent, representative or assistant to any person, firm, association, organization or corporation shall sell, expose for sale or ship for sale potatoes in open or closed packages if the packages containing them or the label on them shall bear any statement, design or device regarding such potatoes which shall be false or misleading in any particular or if such potatoes are packed in such a manner that the face or shown surface shall not be an average of the contents of the package, or if such potatoes fail to meet the minimum grade requirements established as a state grade by the commissioner. This provision shall be construed to also prohibit the repeated use of any container or sub-container, bearing any markings required by sections 951 to 957 or any designation of brands, quality or grade unless all such markings which do not properly and accurately apply to the potatoes repacked or replaced shall first be completely removed, erased or obliterated. Nothing in sections 951 to 957 shall be construed to conflict with any Maine or federal law or regulations regarding net weight markings on containers or sub-containers.

R.S.1954, c. 32, § 297; 1957, c. 104, § 3.

§ 954. Sale without grading by grower

No provisions of sections 951 to 957 shall be construed to prevent a grower or shipper of potatoes from selling or delivering the same within the State unpacked, or selling his crop in bulk, or any part thereof, to a packer for grading, packing or storage within the State; nor shall any provision of said sections prevent any person from manufacturing the same into any by-product, or from selling the same unpacked to any person actually engaged in the operation of a commercial by-products factory for the sole

and express purpose of being used within the State in the manufacture of a by-product for resale.

R.S.1954, c. 32, § 298; 1957, c. 104, § 4.

§ 955. Exemptions

Certified seed potatoes as defined by chapter 401 are exempted from sections 951 to 957, except as may otherwise be promulgated by the commissioner.

R.S.1954, c. 32, § 300.

§ 956. Enforcement; jurisdiction

The commissioner shall diligently enforce all of the provisions of sections 951 to 957. He, either in person or by a duly authorized representative, shall have free access, ingress and egress during business hours to any place or any building wherein potatoes are packed, stored, transported, sold, offered or exposed for sale or for transportation. He may, in person or by duly authorized representative, open any box, barrel or other container and may, upon tendering market price, take samples therefrom. He may recover penalties imposed for violation of said sections in a civil action brought in his own name and if he prevails in such action shall recover full costs; or he may prosecute for violations thereof by complaint or indictment.

The District Court and the Superior Court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by sections 951 to 957, and of prosecutions for violations thereof. All fees received under sections 951 to 957 by the commissioner and all money and fines received by him under said sections shall be paid by him to the Treasurer of State and the same are appropriated for carrying out said sections. The commissioner shall establish such rules and regulations as may be needed for the proper enforcement of sections 951 to 957.

R.S.1954, c. 32, § 299; 1961, c. 317, § 75; 1963, c. 402, § 67.

§ 957. Penalties

Any person, firm or corporation who shall violate any of the provisions of sections 951 to 957 or neglect or refuse to comply with any of the provisions required therein or in any way violate any of said provisions shall be punished by a fine of not more than \$100 for the first offense and by a fine of not more than \$200 for each subsequent offense.

R.S.1954, c. 32, § 301.

ARTICLE 2. MARKETING

§ 991. Title

Sections 991 to 1006 shall be known and may be cited as the "Maine Potato Marketing Act."

R.S.1954, c. 32, § 320.

§ 992. Purposes

The purposes of sections 991 to 1006 are:

1. **Correlate marketing.** To enable potato producers of this State, with the aid of the State, more effectively to correlate the marketing of their potatoes with market demands therefor;

2. **Uniform grading.** To provide for uniform grading and proper preparation of potatoes for market;

3. **Develop markets.** To provide methods and means for the development of new and larger markets for potatoes grown within this State;

4. **Orderly marketing.** To establish orderly marketing of potatoes grown within this State;

5. **Eliminate economic waste.** To eliminate or reduce economic waste in the marketing of potatoes.

R.S.1954, c. 32, § 321.

§ 993. Definitions

As used in sections 991 to 1006, the following terms shall have the following meanings:

1. **Committee.** "Committee" means the administrative committee, called the "Maine Potato Marketing Committee," established pursuant hereto.

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

3. **District.** "District" means each one of the geographical divisions of the production area established as follows:

A. District No. 1. Township 11, Range 8, Townships 11, 12, 13 and 14, Range 7, Township 14, Range 6, Townships 14, 15, 16, Range 5, Townships 16, 17, Range 4, Township 17,

Range 3, the Towns of Van Buren, Cyr, Connor, Caswell, Hamlin and all towns and townships north and west thereof in Aroostook County;

B. District No. 2. All the towns and townships in Aroostook County not included in Districts Nos. 1 and 3;

C. District No. 3. Mount Chase Plantation, Stacyville Plantation, the Town of Patten and Township 2, Range 6, in Penobscot County, and Township 8, Range 5, Township 8, Range 4, Township 8, Range 3, Township C, Range 2, the Town of Monticello and all the towns and townships south thereof in Aroostook County;

D. District No. 4. All the remaining counties, towns and townships in the State not included in Districts 1, 2 and 3.

4. Export. "Export" means shipment of potatoes beyond the boundaries of continental United States.

5. Fiscal year. "Fiscal year" means the period beginning July 1st of each year and ending June 30th of the following year.

6. Grade. "Grade" means one of the officially established grades of potatoes and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

A. The United States Standards for Potatoes issued by the Department of Agriculture on September 10, 1941, effective June 1, 1942 (12 F.R. 3651), or amendments thereto, or modifications thereof, or variations based thereon;

B. United States Consumer Standards for Potatoes as issued by the United States Department of Agriculture on November 3, 1947, effective December 8, 1947 (12 F.R. 7281), or amendments thereto, or modifications thereof, or variations based thereon;

C. State of Maine Standards for Potatoes issued by the State of Maine Commissioner of Agriculture on November 26, 1935, or amendments thereto, or modifications thereof, or variations based thereon.

7. Handler. "Handler" is synonymous with shipper and means any person, except a common or contract carrier of potatoes owned by another person, who ships potatoes in fresh form or packs or prepares potatoes for market.

8. Person. "Person" means an individual, partnership, corporation, association, legal representative or any organized group or business unit.

9. Potatoes. "Potatoes" means all varieties of Irish potatoes grown within the State.

10. Potatoes prepared for market. "Potatoes prepared for market" means and includes all potatoes packed in containers and intended for delivery or in transit or exposed for sale or in the process of delivery or in transit or located at a depot, station, boat dock or any place where potatoes are held in storage or for immediate or future sale or transit.

11. Producer. "Producer" means any person engaged in the production of potatoes for market.

12. Seed potatoes. "Seed potatoes" means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified, under the supervision of the official seed potato certifying agency of the State.

13. Ship or handle. "Ship" or "handle" means to transport, sell or in any other way to pack or prepare potatoes for market.

14. Table stock potatoes. "Table stock potatoes" means and includes all potatoes not included within the definition of "seed potatoes".

15. Varieties. "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

16. Wholesale pack. "Wholesale pack" means a unit of 50 pounds net weight or more of potatoes contained in a bag, crate or any other type of container.

R.S.1954, c. 32, § 322.

§ 994. Administration

The commissioner shall administer and enforce sections 991 to 1006 and shall have and may exercise any or all of the administrative powers conferred upon the head of a department of the State. In order to effectuate the declared purposes of said sections, the commissioner is authorized to issue, administer and enforce the marketing orders regulating the marketing of potatoes within the State.

Whenever the commissioner has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of sections 991 to 1006, he shall, either upon his own motion or upon application of any producer or handler of potatoes, give due notice of and an opportunity for a public hearing upon a proposed marketing order.

Due notice of any hearing called for such purpose shall be given to all persons who may be directly affected by any action of the commissioner pursuant to sections 991 to 1006 and whose names appear upon lists to be filed with the commissioner. Such hearing shall be open to the public. All testimony shall be received under oath and a full and complete record of all proceedings at any such hearing shall be made and filed by the commissioner at his office.

In order to effectuate the declared policy of sections 991 to 1006, the commissioner shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with handlers, producers and others engaged in the handling of potatoes, regulating the preparation, sale and handling of potatoes, which said marketing agreement shall be binding upon the signatories thereto exclusively. The execution of such marketing agreement shall in no manner affect the issuance, administration or enforcement of any marketing order provided for in sections 991 to 1006. The commissioner may issue such marketing order without executing a marketing agreement or may execute a marketing agreement without issuing a marketing order covering the same subject matter. The commissioner, in his discretion, may hold a concurrent hearing upon a proposed marketing agreement and a proposed marketing order in the manner provided for giving due notice and opportunity for hearing for a marketing order as provided in sections 991 to 1006.

After such notice and hearing, the commissioner may issue a marketing order if he finds it will tend to effectuate the declared policy of sections 991 to 1006, subject to the following:

1. Approved by $\frac{2}{3}$ of producers participating in referendum. No marketing order or amendment thereto issued pursuant to sections 991 to 1006 shall become effective unless and until the commissioner determines that the issuance of such order is approved and favored by at least $\frac{2}{3}$ of the producers who participated in a referendum on the question of its approval and who, during the preceding fiscal year, have been engaged in the production of potatoes for market within the production area specified in such marketing order, and who, during such year, have

produced at least $\frac{2}{3}$ of the volume of potatoes produced for market within such production area specified herein by all producers who participated in the said referendum.

1963, c. 192.

2. Assent of handlers. No marketing agreement or amendment thereto, directly affecting handlers, issued pursuant to sections 991 to 1006, shall become effective unless and until the commissioner finds that such agreement has been assented to in writing by the handlers who handle not less than 50% of the volume of the potatoes handled within the area defined in such agreement and by not less than 50% of the number of handlers engaged in handling potatoes within such area.

R.S.1954, c. 32, § 323; 1963, c. 192.

§ 995. Potato Marketing Committee

1. Membership of committee. Any marketing order issued pursuant to sections 991 to 1006 shall provide for the establishment of an administrative committee to administer such order in accordance with its terms and provisions. This committee shall be known as the "Maine Potato Marketing Committee" and shall consist of 8 members, of whom 5 shall be producers and 3 shall be handlers. For each member of the committee there shall be an alternate who shall have the same qualifications as the member. Persons selected as committee members or alternates to represent producers shall be individuals who are producers in the respective district for which selected or officers or employees of a corporate producer in such district and such persons shall be residents of the respective district for which selected. Persons selected as committee members or alternates to represent handlers shall be individuals who are handlers in the State or officers or employees of a corporate handler in this State and such persons shall be residents of the State.

2. Term of office. The term of office of committee members and alternates shall be for one year, beginning on the first day of July and continuing until the end of the then current fiscal year, and until their successors are selected and have qualified. Committee members and alternates shall serve during the fiscal year for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the fiscal year and continuing until the end thereof, and until their successors are selected and have qualified.

3. Selection. The commissioner shall select 2 producer members of the committee, with their respective alternates, from District No. 2 and one producer member, with his respective alternate, from each of the other districts, which members and alternates shall represent the respective district from which they are selected. The commissioner shall also select 3 handler members of the committee, with their respective alternates, from the production area at large.

4. Nomination. The commissioner may select the members of the "Maine Potato Marketing Committee" and their respective alternates from nominations which may be made in the following manner:

A. In order to provide nominations for committee members and alternates:

(1) The Maine Potato Marketing Committee shall hold or cause to be held prior to May 1st of each year, a meeting or meetings of producers in each of the districts and a meeting or meetings of handlers in the production area;

(2) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(3) At such meeting at least 2 nominees shall be designated for each position as member and for each position as alternate member on the committee;

(4) Nominations for committee members and alternate members shall be supplied to the commissioner in such manner and form as he may prescribe, not later than 30 days prior to the end of each fiscal year;

(5) Only producers may participate in designating nominees for producer committee members and their alternates and only handlers may participate in designating nominees for handler committee members and their alternates;

(6) Each person who is both a handler and a producer may vote either as a handler or as a producer and may elect the group in which he votes; and

(7) Regardless of the number of districts in which a person produces potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates and representatives in designating nominees for committee members and alternates. In

the event a person is engaged in producing in more than one district, such person shall elect the district within which he may participate in designating nominees. An eligible voter's privilege of casting only one vote shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

5. Failure to nominate. If nominations are not made within the time and in the manner specified by the commissioner pursuant to subsection 4, the commissioner may, without regard to nominations, select the committee members and alternates, which selection shall be on the basis of the representation provided for.

6. Acceptance. Any person selected by the commissioner as a committee member or as an alternate shall qualify by filing a written acceptance with the commissioner within 10 days after being notified of such selection.

7. Vacancies. To fill any vacancy occasioned by the failure of any person selected as a committee member or as an alternate to qualify, or in the event of the death, removal, resignation or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the commissioner from nominations made in the manner specified in subsection 4, or the commissioner may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the commissioner within 30 days after such vacancy occurs, the commissioner may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for.

8. Alternate members. An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of the death, removal, resignation or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

9. Procedure. Six members of the committee shall be necessary to constitute a quorum and 6 concurring votes shall be required to pass any motion or approve any committee action.

The committee may provide for meeting by telephone, telegraph or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing. If any assembled meeting is held, all votes shall be cast in person.

10. Expenses and compensation. No committee member shall receive a salary, but each shall be entitled to his actual expenses incurred while engaged in performing his duties authorized. The commissioner may authorize such board to employ necessary personnel, including an attorney, fix their compensation and terms of employment, and to incur such expenses, to be paid by the commissioner from moneys collected as provided, as the commissioner may deem necessary and proper to enable such board properly to perform such of its duties as are authorized herein.

11. Duties. It shall be the duty of the committee.

A. Subject to the approval of the commissioner, to administer such marketing agreement or order;

B. To recommend to the commissioner administrative rules and regulations relating to the marketing agreement or order;

C. To receive and report to the commissioner complaints of violations of the marketing agreement or order;

D. To recommend to the commissioner amendments to the marketing agreement or order;

E. To submit to the commissioner for his approval an estimated budget of expense necessary for the operation of any marketing agreement or order established by authority of sections 991 to 1006 and submit for approval a method of assessing and collecting such funds as the commissioner may find necessary for the administration of such marketing agreement or order;

F. To assist the commissioner in the collection of such information and data as the commissioner may deem necessary to the proper administration of sections 991 to 1006.

R.S.1954, c. 32, § 324.

§ 996. Expenses and assessments

1. Expenses. The committee is authorized to incur such expenses as the commissioner finds may be necessary to perform its functions during each fiscal year and for such other purposes as the commissioner may determine to be appropriate pursuant to the provisions hereof. The funds to cover such expenses shall be acquired by the levying of assessments upon handlers.

2. Assessments. Each handler who first ships potatoes shall pay to the committee, upon demand, such handler's pro rata

share of the expenses as the commissioner finds will be incurred by the committee for its maintenance and functioning during each fiscal year, and for such purposes as the commissioner may determine to be appropriate pursuant to the provisions hereof. Such handler's pro rata share of such expense shall be equal to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof during the same fiscal year. The commissioner shall fix the rate of assessment to be paid by such handlers.

At any time during a fiscal year, the commissioner may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the commissioner relative to the expense of the committee. Such increase shall be applicable to all potatoes handled during the given fiscal year. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

3. Accounting. If, at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

If, after reasonable effort by the committee, it is found impossible to return excess funds to handlers, such funds shall, with the approval of the commissioner, be turned over to an appropriate agency serving potato producers in the production area.

The committee may, with the approval of the commissioner, maintain in its own name or in the name of its members a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

4. Funds. All funds received by the committee pursuant to any provision hereof shall be used solely for the purposes specified and shall be accounted for in the following manner:

A. The commissioner may at any time require the committee and its members to account for all receipts and disbursements; and

B. Whenever any person ceases to be a committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his

successor in office or to such person as the commissioner may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds or claims vested in such member or alternate.

R.S.1954, c. 32, § 325.

§ 997. Regulation

1. Marketing policy. At the beginning of each fiscal year the committee shall prepare and submit to the commissioner a report setting forth its proposed policy for the marketing of potatoes during such fiscal year. In the event it becomes advisable to deviate from such marketing policy because of changed demand and supply conditions, the committee shall formulate a new marketing policy and shall submit a report thereon to the commissioner. The committee shall notify producers and handlers of the contents of such reports.

2. Recommendation for regulations.

A. It shall be the duty of the committee to investigate supply and demand conditions for grade, size and quality of potatoes of all varieties. In such investigations, the committee shall give due consideration to the following factors:

- (1) Market prices of potatoes, including prices by grade, size and quality in wholesale or in consumer packs or any other shipping unit;
- (2) Potatoes on hand in the market areas as manifested by supplies en route and on track at the principal markets;
- (3) Supply of potatoes, by grade, size and quality, in this State and other production areas;
- (4) The trend and level of consumer income; and
- (5) Other relevant factors.

B. The committee shall recommend regulation to the commissioner, in accordance herewith, whenever it finds, on the basis of the foregoing investigation, that such conditions make it advisable:

- (1) To regulate, in any or all portions of the production area, the preparation for market of particular grades and sizes of any or all varieties of tablestock or seed potatoes, or both, during any period; or

(2) To regulate the preparation for market of particular grades and sizes of potatoes differently for different varieties, for different portions of the production area, for consumer or wholesale packs or any other shipping unit, for tablestock and seed, or any combination of the foregoing, during any period; or

(3) To regulate the preparation for market of potatoes by establishing, in terms of grades, sizes, or both, minimum standards of quality.

3. Issuance of regulation.

A. The commissioner shall regulate the preparation for market of potatoes, whenever he finds from the recommendations and information submitted by the committee or from other available information, that it would tend to effectuate the declared policy of sections 991 to 1006:

(1) To regulate, in any or all portions of the production area, the preparation for market of particular grades and sizes of any or all varieties of tablestock or seed potatoes, or both, during any period; or

(2) To regulate the preparation for market of particular grades and sizes of potatoes differently for different varieties, for different portions of the production area, for consumer or wholesale packs, for tablestock and seed, or any combination of the foregoing, during any period; or

(3) To regulate the preparation for market of potatoes by establishing, in terms of grade, size or both, minimum standards of quality.

B. The commissioner shall notify the committee of any such regulation and the committee shall give reasonable notice thereof to handlers.

4. Inspection. During any period in which the commissioner regulates the preparation for market of potatoes pursuant to the provisions of this section, he may require each handler who first ships potatoes, prior to making shipment, to cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service.

5. Exemptions.

A. The committee may adopt, subject to approval of the commissioner, the procedures pursuant to which certificates of exemption will be issued to producers or handlers.

B. The committee may issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee:

(1) That by reason of a regulation issued pursuant to this section he will be prevented from shipping as large a proportion of his production as the average proportion of production shipped by all producers in said applicant's immediate production area; and

(2) That the grade, size or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation.

Each certificate shall permit the producer to ship the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of sale.

C. The committee may issue certificates of exemption to any handler who applies for such exemption and furnishes adequate evidence to the committee:

(1) That by reason of a regulation issued pursuant to this section he will be prevented from shipping as large a proportion of his storage holdings of ungraded potatoes, acquired during or immediately following the digging season, as the average proportion of ungraded storage holdings shipped by all handlers in said applicant's immediate shipping area; and

(2) That the grade, size or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation.

Each certificate shall permit the handler to ship the amount of potatoes specified thereon. Such certificate may be transferred with such potatoes at time of sale.

D. The committee shall be permitted at any time to make a thorough investigation of any producer's or handler's claim pertaining to exemptions.

E. If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination

on the appeal. The committee shall thereupon reconsider the application, examine all available evidence and make a final determination concerning the application. The committee shall notify the appellant of the final determination and shall furnish the commissioner with a copy of the appeal and a statement of considerations involved in making the final determination.

F. The commissioner shall have the right to modify, change, alter or rescind any procedure and any exemptions granted pursuant to this section.

G. The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such exemption certificates, a record of the amount of potatoes shipped under exemption certificates, a record of appeals for reconsideration of applications and such information as may be requested by the commissioner. Periodic reports on such records shall be compiled and issued by the committee upon request of the commissioner.

R.S.1954, c. 32, § 326.

§ 998. Control of surplus

1. Recommendations. It shall be the duty of the committee to investigate supply and demand conditions of potatoes. Whenever the committee finds that a surplus of potatoes exists, it shall determine the extent of such surplus of potatoes of any grade, size or quality thereof. If it is deemed advisable, the committee shall recommend the control and distribution of surplus potatoes and plans for equalizing the burden of surplus elimination or control among the producers and handlers thereof under uniform rules recommended by the committee and established by the commissioner.

2. Issuance of regulations. Whenever the commissioner finds from the recommendations and information submitted by the committee or from other available information that the control and disposition of surplus potatoes will tend to effectuate the declared policy of sections 991 to 1006, he shall control and dispose of such surplus potatoes and shall further provide for equalizing the burden of such surplus elimination or control among producers and handlers thereof. At any time during which the commissioner provides for the control and disposition of surplus potatoes, the committee is authorized to enter into contracts or

agreements with any person, agency or organization for the purpose of facilitating the disposal of surplus potatoes.

R.S.1954, c. 32, § 327.

§ 999. Change of regulations

The commissioner, upon the basis of recommendations of the committee or upon the basis of other available information, may modify, suspend or terminate regulations issued pursuant hereto in order to facilitate preparation for market of potatoes for certain specified purposes, whenever he finds that such actions tend to effectuate the declared policy of sections 991 to 1006, and that adequate safeguards may be established to prevent such shipments from entering channels of trade for other than the specified purposes.

R.S.1954, c. 32, § 328.

§ 1000. Reports

Upon the request of the committee, with approval of the commissioner, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties. The commissioner shall have the right to modify, change or rescind any requests for reports pursuant to this section.

R.S.1954, c. 32, § 329.

§ 1001. Compliance

Except as otherwise provided, no handler shall have in his possession potatoes prepared for market except in conformity to any effective marketing order or agreement issued.

R.S.1954, c. 32, § 330.

§ 1002. Termination or change of marketing orders

The commissioner may terminate, suspend or amend the operation of any or all of the provisions of any marketing order, whenever he finds that such provisions do not tend to effectuate declared policy of sections 991 to 1006.

The commissioner shall terminate any marketing order at the end of any fiscal year, whenever he finds that such termination is favored by a majority of producers who, during the pre-

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ceding fiscal year, have been engaged in the production for market of potatoes; provided such majority has, during such year, produced for market more than 50% of the volume of such potatoes produced for market. Such termination shall be effective only if announced on or before June 30th of the then current fiscal year.

Upon the termination of the provisions hereof, the then functioning members of the committee shall continue as trustees for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

The said trustees shall continue in such capacity until discharged by the commissioner; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the commissioner may direct; and shall, upon request of the commissioner, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property and claims vested in the committee or the trustees pursuant thereto.

Any person to whom funds, property or claims have been transferred or delivered by the committee or its members pursuant to this section shall be subject to the same obligations imposed upon the members of the committee and upon the said trustee.

R.S.1954, c. 32, § 331.

§ 1003. Effect of termination or amendment

Unless otherwise expressly provided by the commissioner, the termination of any regulation issued pursuant hereto, or the issuance of any amendment thereto, shall not affect nor waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or release or extinguish any violation hereof or of any regulation issued hereunder, or affect or impair any rights or remedies of the commissioner or of any other person with respect to any such violation.

R.S.1954, c. 32, § 332.

§ 1004. Duration of immunities

The benefits, privileges and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

R.S.1954, c. 32, § 333.

§ 1005. Personal liability of committee member

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate or employee, except for acts of dishonesty.

R.S.1954, c. 32, § 334.

§ 1006. Penalties

Every person, who violates any provision of sections 991 to 1006 or any provision of any marketing order duly issued by the commissioner thereunder, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for not less than 10 days nor more than 6 months, or by both. Each day during which any of the violations above referred to continues shall continue a separate offense.

R.S.1954, c. 32, § 335.

§ 1007. Dumping of waste potatoes

No person, firm or corporation shall dump waste potatoes in such manner that the same shall sprout and grow, thereby permitting or in any way facilitating the spread of potato diseases to cultivated potato fields. On complaint to the department, an official of the department shall notify the offending person, firm or corporation to take care of the dump and on his failure to act the department will take measures to destroy the waste and the expense of such action must be borne by the offending person, firm or corporation.

R.S.1954, c. 32, § 152.

SUBCHAPTER XI

SEEDS

Sec.

- 1041. Title.
- 1042. Definitions.
- 1043. Label requirements.
- 1044. Prohibitions.
- 1045. Exemptions and penalties.
- 1046. Duties of commissioner.
- 1047. Powers.
- 1048. Seizure.

§ 1041. Title

This subchapter shall be known and may be cited as the "Maine Seed Law."

R.S.1954, c. 32, § 229.

§ 1042. Definitions

As used in this subchapter, the following words and phrases shall have the following meanings:

1. Advertisement. "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the meaning of this subchapter.

2. Agricultural seeds. "Agricultural seeds" shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this State as agricultural or field seeds, and mixtures of such seeds, except seeds of cereals grown in Maine and sold directly from grower to grower and not labeled as seed.

3. Labeling. "Labeling" includes all labels and other written, printed or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

4. Noxious-weed seeds. "Noxious-weed seeds" shall be divided into 2 classes, primary noxious-weed seeds and secondary noxious-weed seeds. The commissioner may, through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever he finds, after public

hearing, that such additions or subtractions are within the respective definitions.

5. Person. "Person" shall include any individual, partnership, corporation, company, society or association.

6. Primary noxious-weed seeds. "Primary noxious-weed seeds" are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control by ordinary good cultural practice. In this State they are the seeds of Bindweed (*Convolvulus arvensis*), Quackgrass (*Agropyron repens*), Canada Thistle (*Cirsium arvense*), Nut Grass (*Cyperus esculentus*) and Wound Wort (*Stachys polustris*).

7. Secondary noxious-weed seeds. "Secondary noxious-weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns or gardens, but can be controlled by good cultural practice. In this State they are the seeds of Dodder (*Cuscuta* spp.), Horsenettle (*Solanum carolinense*), Wild Mustard (*Brassica* spp.), Wild Garlic (*Allium vineale*), Wild Onion (*Allium canadense*), Wild Radish (*Raphanus raphanistrum*), Perennial Sowthistle (*Sonchus arvensis*), Corncockle (*Agrostemma githago*), Buckhorn Plantain (*Plantago lanceolata*) and Yellow Rocket (*Barbarea vulgaris*).

8. Vegetable seeds. "Vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this State.

9. Weed seeds. "Weed seeds" shall include the seeds of all plants other than other crop seed and pure seed and shall include noxious-weed seeds.

R.S.1954, c. 32, § 230.

§ 1043. Label requirements

Each container of agricultural or vegetable seed which is sold, offered for sale or exposed for sale within the State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

1. For agricultural seeds:

A. Commonly accepted name of kind or kind and variety of each agricultural seed component in excess of 5% of the

whole and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or "mixed" shall be shown conspicuously on the label;

B. Lot number or other lot identification;

C. Origin, if known, of alfalfa, red clover and field corn, except hybrid corn. If the origin is unknown, that fact shall be stated;

D. Percentage by weight of all weed seeds;

E. The name and approximate number of each kind of secondary noxious-weed seed:

(1) Per ounce in *Agrostis* spp., *Poa* spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues, alsike and white clover, reed canary grass, Dallis grass, ryegrass, foxtail millet, alfalfa, red clover, sweetclovers, lespedezas, smooth brome, crimson clover, *Brassica* spp., flax, *Agropyron* spp. and other agricultural seeds of similar size and weight or mixtures within this group; and

(2) Per pound in proso, Sudan grass, wheat, oats, rye, barley, buckwheat, sorghums, vetches and other agricultural seeds of a size and weight similar to or greater than those within this group or any mixtures within this group.

All determinations of noxious-weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner under this subchapter;

F. Percentage by weight of agricultural seeds, which may be designated as "crop seeds," other than those required to be named on the label;

G. Percentage by weight of inert matter;

H. For each named agricultural seed:

(1) Percentage of germination, exclusive of hard seed;

(2) Percentage of hard seed, if present;

(3) "Total germination and hard seed" may be stated as such, if desired;

(4) The calendar month and year the test was completed to determine such percentages;

I. Name and address of the person who labeled said seed or who sells, offers or exposes said seed for sale within this State.

2. For vegetable seeds:

A. Name of kind and variety of seed;

B. For seeds which germinate less than the standard last established by the commissioner:

(1) Percentage of germination, exclusive of hard seed;

(2) Percentage of hard seed, if present;

(3) The calendar month and year the test was completed to determine such percentages;

(4) The words "Below Standard" in not less than 8-point type.

C. Name and address of the person who labeled said seed or who sells, offers or exposes said seed for sale within this State.

R.S.1954, c. 32, § 231.

§ 1044. Prohibitions

1. Test for germination; labels; ads; noxious weeds. It shall be unlawful for any person to sell, offer for sale or expose for sale any agricultural or vegetable seed within this State:

A. Unless the test to determine the percentage of germination required by section 1043 shall have been completed within a 9-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale or offering for sale or transportation;

B. Not labeled in accordance with this subchapter, or having a false or misleading label;

C. Pertaining to which there has been a false or misleading advertisement;

D. Containing primary noxious-weed seeds not in accordance with tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner;

E. If noxious-weed seeds are present singularly or collectively in excess of 500 per pound.

2. Misuse of labels; false ads; obstructions; stop-sales. It shall be unlawful for any person within this State:

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A. To detach, alter, deface or destroy any label provided for in this subchapter, or the rules and regulations promulgated by the commissioner thereunder, or to alter or substitute seed in any manner that may defeat the purposes of said subchapter;

B. To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means;

C. To hinder or obstruct in any way any authorized person in the performance of his duties under this subchapter;

D. To fail to comply with a “stop-sale” order.

R.S.1954, c. 32, § 232.

§ 1045. Exemptions and penalties

Sections 1043 and 1044 shall not apply to seed or grain not intended for sowing purposes, nor to seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing. Any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed shall be subject to this subchapter.

No person shall be subject to the penalties of this subchapter for having sold or offered or exposed for sale in this State any agricultural or vegetable seeds which were incorrectly labeled or represented as to kind, variety, type or origin, which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower’s declaration giving kind, or kind and variety, or kind and type, and origin if required, and to take such other precautions as may be necessary to insure the identity to be that stated.

Every violation of this subchapter shall be deemed to be a misdemeanor and shall be punishable by a fine of not more than \$100 for the first offense and not more than \$250 for each subsequent similar offense.

R.S.1954, c. 32, § 233.

§ 1046. Duties of commissioner

It shall be the duty of the commissioner, who may act through his authorized agents:

1. Inspection. To sample, inspect, cause to be analyzed or tested, agricultural and vegetable seeds transported, sold or offered or exposed for sale within this State for sowing purposes,

at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seeds are in compliance with this subchapter, and to notify promptly of any violation, the person who transported, sold, offered or exposed the seed for sale;

2. Rules and regulations. To prescribe and, after public hearing following due public notice, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, test and examination of agricultural and vegetable seed, and the tolerances to be followed, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of this subchapter.

R.S.1954, c. 32, § 234.

§ 1047. Powers

For the purpose of carrying out this subchapter, the commissioner or his duly authorized agents shall have authority:

1. Stop-sale orders. To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the commissioner finds is in violation of any of the provisions of this subchapter, which order shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. No "stop-sale" order shall be issued or attached to any lot of seed without first giving the owner or custodian of such seed an opportunity to comply with the law. The owner or custodian of seeds which have been denied sale by a "stop-sale" order shall have the right to appeal from such order to a court of competent jurisdiction in the locality in which the seeds are found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order. This subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of this subchapter.

2. Employ qualified persons. To employ qualified persons under the Personnel Law and to incur such expenses as may be necessary to carry out this subchapter.

3. Cooperate with Federal Government. To cooperate with the Federal Government in seed law enforcement.

R.S.1954, c. 32, § 235.

§ 1048. Seizure

Any lot of agricultural or vegetable seed not in compliance with this subchapter shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the locality in which the seed is located. In the event that the court finds the seed to be in violation of this subchapter, and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled or otherwise disposed of as provided in this subchapter. In no instance shall the court order such disposition of seed without first having given the claimant an opportunity to apply to the court for the release of said seed or permission to process or relabel it to bring it into compliance with this subchapter.

R.S.1954, c. 32, § 236.

SUBCHAPTER XII

VINEGAR

Sec.

- 1081. Definitions.
- 1082. Sales of adulterated or misbranded vinegar prohibited.
- 1083. Adulteration.
- 1084. Misbranding.
- 1085. Common carriers.

§ 1081. Definitions

As used in this subchapter:

1. Cider vinegar and apple vinegar. "Cider vinegar" and "apple vinegar" shall be construed to mean the product made exclusively from the expressed juice of clean whole apples, by alcoholic and subsequent acetous fermentations, the acidity, solids and ash of which have been derived exclusively from the apples from which it was fermented.

2. Glucose vinegar. "Glucose vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of corn sugar or glucose.

3. Malt vinegar. "Malt vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of an infusion of barley malt.

4. Spirit vinegar, distilled vinegar and grain vinegar. "Spirit vinegar," "distilled vinegar" and "grain vinegar" shall be

construed to mean the product made by the acetous fermentations of dilute distilled alcohol.

5. Sugar vinegar. "Sugar vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of sugar, syrup, molasses or refiner's syrup.

6. Wine vinegar and grape vinegar. "Wine vinegar" and "grape vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of the juice of grapes.

R.S.1954, c. 32, § 200.

§ 1082. Sales of adulterated or misbranded vinegar prohibited

No person shall, within this State, manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any product known as vinegar which is adulterated or misbranded within the meaning of this subchapter.

R.S.1954, c. 32, § 199.

§ 1083. Adulteration

For the purpose of this subchapter vinegar shall be deemed to be adulterated:

1. Drugs, acids, etc. If it contains any drugs, acids, coloring matter or ingredients not derived exclusively from the substances from which they were respectively made;

2. Acetic acid. If it contains less than 4 grams of acetic acid in 100 cubic centimeters of the vinegar at 70° Fahrenheit;

3. Distillation of wood. If manufactured by the destructive distillation of wood, known as pyroligneous acid, or acetic acid derived from other sources than fruit, grain, vegetables, sugar or syrup;

4. Mineral acids. If it is found to contain any preparation of lead, copper, sulphur dioxide, sulphuric acid, other mineral acids, any substitute for vinegar produced other than by alcoholic and subsequent acetous fermentation or other ingredients injurious to health.

R.S.1954, c. 32, § 201.

§ 1084. Misbranding

For the purposes of this subchapter vinegar shall be deemed to be misbranded:

1. Acidity. If packages containing vinegar made from wine or fruits which have been reduced with water are not plainly marked or branded "Reduced to 4% Acid Strength" or "Reduced to 40 Grains," indicating the acidity to which it has been so reduced;

2. Material from which produced. If a product made from dried apples, or from apple skins, apple cores and chops by the process of grinding and soaking with subsequent alcoholic and acetous fermentations of the solution thus obtained is not plainly marked to show the material from which it is produced;

3. Manufacturer or distributor. If the package containing said vinegar or its label is not plainly branded with the name of the manufacturer or distributor and his place of business;

4. Marks or brands. If every container or receptacle which contains any vinegar other than pure cider or apple vinegar, except delivered to the purchaser in the unbroken package, does not bear plain or conspicuous marks or brands, showing the kind of vinegar so delivered and the substance or substances from which it was made;

5. Compound. If mixtures of 2 or more of the vinegars defined are not plainly and conspicuously branded with the word "compound" together with the proportions of the vinegars so mixed.

R.S.1954, c. 32, § 202.

§ 1085. Common carriers

This subchapter shall not apply to railroad companies, steamboat companies, express companies or other common carriers of property coming under the jurisdiction of the Interstate Commerce Commission or the Public Utilities Commission of this State unless they knowingly violate such subchapter.

R.S.1954, c. 32, § 203.