CHAPTER 710

POTATO INDUSTRY

§4601. Legislative findings and purpose

The Legislature finds that the potato industry is an essential component of the economic and social welfare of the State, particularly in portions of the State which are stressed by lack of other economic opportunities. Accordingly, the Legislature finds that special efforts by State Government are warranted in order to mobilize and improve the Maine potato industry. [PL 1985, c. 753, §§ 14, 15 (NEW).]

The Legislature also finds that the current, highly fragmented organization of the Maine potato industry inhibits the type of effective leadership which is needed if that industry is to survive. The purpose of this chapter is to create a unified organizational structure, under the auspices of a state agency, to provide for the advancement of the Maine potato industry in the public interest and for the public good. Under this new organizational structure, all elements of the Maine potato industry will be represented and will work together under the leadership of a unified, public board to solve the problems facing the industry. [PL 1985, c. 753, §§ 14, 15 (NEW).]

SECTION HISTORY

PL 1985, c. 753, §§14,15 (NEW).

§4602. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1985, c. 753, §§14, 15 (NEW).]

1. Board. "Board" means the Maine Potato Board.
[PL 1985, c. 753, §§14, 15 (NEW).]

2. Dealer. "Dealer" means any person, defined as a dealer under Title 7, section 1012, who is licensed as a dealer under Title 7, section 1015.
[PL 1985, c. 753, §§14, 15 (NEW).]

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

A. District 1: Connor, Cyr Plantation, Eagle Lake, Fort Kent, Fort Kent Mills, Frenchville, Grand Isle, Hamlin, Keegan, Lille, Madawaska, New Canada, New Sweden, Perham, Sinclair, Soldier Pond, St. Agatha, St. David, St. Francis, St. John, Stockholm, TR 17, Van Buren, Wallagrass, Westmanland, Woodland and Winterville; [PL 2019, c. 6, §1 (AMD).]

B. District 2: Ashland, Caribou, Castle Hill, Caswell, Chapman, Crouseville, Easton, Fort Fairfield, Garfield Plantation, Limestone, Mapleton, Nashville Plantation, Portage Lake, Presque Isle, Wade and Washburn; and [PL 2019, c. 6, §1 (AMD).]

C. District 3: All municipalities and townships in the State not included in Districts 1 and 2. [PL 2019, c. 6, §1 (AMD).]

D. [PL 2019, c. 6, §2 (RP).]

E. [PL 2019, c. 6, §3 (RP).]

F. [PL 2001, c. 164, §2 (RP).]

G. [PL 2001, c. 164, §2 (RP).]
[PL 2019, c. 6, §§1-3 (AMD).]

4. Potatoes. "Potatoes" means and includes all potatoes, whether graded or ungraded, including all potatoes sold for processing into food or animal feed.
[PL 2005, c. 176, §1 (AMD).]

5. Processing grower. "Processing grower" means any grower of potatoes destined for sale to a processor.
[PL 1985, c. 753, §§14, 15 (NEW).]

6. Processor. "Processor" means any person, defined as a processor under Title 7, section 1012, who is licensed as a processor under Title 7, section 1015.
[PL 1985, c. 753, §§14, 15 (NEW).]

7. Seed grower. "Seed grower" means any grower of potatoes destined for sale as seed.
[PL 1985, c. 753, §§14, 15 (NEW).]

8. Shipment. "Shipment" shall be deemed to take place when potatoes are located within the State in a car, boat, truck or other conveyance in which potatoes are to be transported.
[PL 1985, c. 753, §§14, 15 (NEW).]

9. Shipper. "Shipper" means any person engaged in the business of any of the following:

A. Agent or broker, by selling or distributing potatoes in commerce for or on behalf of growers or others, or by negotiating sales of potatoes in commerce for or on behalf of the seller or the purchaser, respectively; [PL 1985, c. 753, §§14, 15 (NEW).]

B. Dealer; [PL 1985, c. 753, §§14, 15 (NEW).]

C. Processor; [PL 1985, c. 753, §§14, 15 (NEW).]

D. Grower, only when selling potatoes to anyone other than the parties set forth in paragraph A, B or C. [PL 1985, c. 753, §§14, 15 (NEW).]
[PL 1985, c. 753, §§14, 15 (NEW).]

10. Tablestock grower. "Tablestock grower" means any grower of potatoes destined for fresh market sale.
[PL 1985, c. 753, §§14, 15 (NEW).]

SECTION HISTORY

PL 1985, c. 753, §§14,15 (NEW). PL 1991, c. 190 (AMD). PL 2001, c. 164, §2 (AMD). PL 2005, c. 176, §1 (AMD). PL 2017, c. 403, Pt. A, §3 (AMD). PL 2017, c. 403, Pt. A, §4 (AFF). PL 2019, c. 6, §§1-3 (AMD).

§4603. Maine Potato Board

1. Establishment. The Maine Potato Board is a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part is determined to be the performance of essential government functions. For the purposes of the budget, accounts and control, purchasing or other provisions of Title 5, Part 4, the board may not be construed to be a state agency. The board consists of 11 members who must be elected in accordance with the procedures set forth in this chapter and such additional procedures as the board may prescribe by rulemaking. Subject to such staggered terms as the board may provide by rule, board members shall serve 2-year terms, except that a board member may continue to serve until a successor is duly elected and qualified and that board members may not serve more than 3 consecutive terms.
[PL 2011, c. 548, §22 (AMD).]

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

A. There are 3 assemblies of tablestock growers, one for each district. Subject to paragraph F, all tablestock growers in any district are entitled to membership in that district's tablestock growers' assembly. [PL 2019, c. 6, §4 (AMD).]

B. There are 3 assemblies of seed growers, one for each district. Subject to paragraph F, all seed growers in any district are entitled to membership in that district's seed growers' assembly. [PL 2019, c. 6, §4 (AMD).]

C. There are 3 assemblies of processing growers, one for each district. Subject to paragraph F, all processing growers in any district are entitled to membership in that district's processing growers' assembly. [PL 2019, c. 6, §4 (AMD).]

D. There shall be one assembly of dealers statewide. Subject to paragraph F, all dealers shall be entitled to membership in this assembly. [PL 1985, c. 753, §§14, 15 (NEW).]

E. There shall be one assembly of processors statewide. Subject to paragraph F, all processors shall be entitled to membership in this assembly. [PL 1985, c. 753, §§14, 15 (NEW).]

F. Notwithstanding paragraphs A to E, no person, firm or corporation may be a member of more than one assembly. Any person, firm or corporation which qualifies for membership in an assembly shall annually declare, in accordance with procedures prescribed by the board, the assembly in which membership is sought. [PL 1985, c. 753, §§14, 15 (NEW).]

[PL 2019, c. 6, §4 (AMD).]

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

A. The executive council for the tablestock growers consists of 5 members, one elected by the tablestock growers' assembly for each district and 2 additional members appointed by the board. [PL 2019, c. 6, §5 (AMD).]

B. The executive council for the seed growers consists of 5 members, one elected by the seed growers' assembly for each district and 2 additional members appointed by the board. [PL 2019, c. 6, §5 (AMD).]

C. The executive council for the processing growers consists of 5 members, one elected by the processing growers' assembly for each district and 2 additional members appointed by the board. [PL 2019, c. 6, §5 (AMD).]

D. The executive council for the dealers shall consist of 5 members elected by the dealers' assembly. [PL 2019, c. 6, §6 (AMD).]

E. The executive council for the processors shall consist of 5 members elected by the processors' assembly. [PL 1985, c. 753, §§14, 15 (NEW).]

[PL 2019, c. 6, §§5, 6 (AMD).]

4. Terms of executive council membership. Once elected, executive council members serve for 2 years, provided that the members may continue to serve until a successor is duly elected and qualified and that executive council members may not serve more than 5 consecutive terms. The members appointed by the board serve for staggered 2-year terms to be determined by the board.

[PL 2001, c. 164, §5 (AMD).]

5. Meetings of executive councils and assemblies. Executive councils shall annually elect a chair. Each executive council shall hold meetings from time to time, no less than once a year, upon call of the executive council chair, a majority of the executive council or the board. Each assembly shall hold meetings from time to time, no less than once a year, upon call of a majority of its executive council or upon call of the board, except that district assemblies of growers may hold these meetings

jointly in statewide sessions or in concert with other assemblies or groups of assemblies. All meetings of assemblies and executive councils must be open to the public and otherwise in compliance with Title 1, chapter 13.
[PL 2019, c. 6, §7 (AMD).]

6. Composition of the board. The board consists of the following members:

A. Two members elected by the executive council of the tablestock growers' assemblies, except that no dealer may serve in this capacity; [PL 2011, c. 7, §2 (AMD).]

B. Two members elected by the executive council of the seed growers' assemblies, except that no dealer may serve in this capacity; [PL 2011, c. 7, §2 (AMD).]

C. Two members elected by the executive council of the processing growers' assemblies, except that no dealer may serve in this capacity; [PL 2011, c. 7, §2 (AMD).]

D. One member elected by the executive council of the dealers' assembly; [PL 2011, c. 7, §2 (AMD).]

E. Two members elected by the executive council of the processors' assembly; [PL 2011, c. 7, §2 (AMD).]

F. The immediate past president of the board; and [PL 2011, c. 7, §2 (NEW).]

G. One grower member elected at large from all growers. [PL 2011, c. 7, §2 (NEW).]

In the event of the permanent disqualification or resignation of a board member, the executive council responsible for electing that member shall elect a replacement for the balance of the term remaining.
[PL 2011, c. 7, §2 (AMD).]

7. Board officers and committees. The board shall annually elect officers, including a president, vice-president, secretary and treasurer and such other officers as it deems necessary. The board may appoint committees from its membership and assign to each committee such tasks as it deems appropriate, subject to the regular oversight of the entire board.
[PL 1985, c. 753, §§14, 15 (NEW).]

8. Board meetings. A regular annual meeting of the board must be held on a date determined by the board. Other meetings, of which there must be at least 6 per year, may be held upon call of the chair or of a majority of the board or by vote of the board. A majority of the board's members constitutes a quorum at any board meeting. The vote of a majority of board members present constitutes the act of the board at a meeting where a quorum is present. All board meetings must be open to the public and must be in compliance with Title 1, chapter 13, except as otherwise provided in this chapter.
[PL 2011, c. 7, §3 (AMD).]

9. Staff. The board shall appoint an executive director who is the board's chief administrative officer and who serves at the pleasure of the board. The executive director shall employ such additional staff as the board directs and the staff serves at the pleasure of the executive director. Staff of the board is not subject to the Civil Service Law. The salary paid to the executive director and other staff of the board must be fixed by the board. The board may delegate to its staff the power to execute the board's policies and programs, subject to regular oversight of the board. After March 1, 1996, employees of the board may not be considered to be state employees for any purpose. For the purposes of the Maine Tort Claims Act, the board is a "governmental entity" and its employees are "employees" as those terms are defined in Title 14, section 8102.
[PL 1995, c. 502, Pt. C, §15 (AMD).]

10. Compensation. Board members and members of executive councils may be compensated and reimbursed for expenses in accordance with such guidelines as the board may establish.
[PL 1995, c. 502, Pt. C, §16 (AMD).]

11. Transition.
[PL 2011, c. 548, §23 (RP).]

12. State employees for certain purposes. Notwithstanding subsection 9, employees of the board, including employees hired after the effective date of this section, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter II.
[PL 1995, c. 702, §1 (NEW); PL 1995, c. 702, §4 (AFF).]

SECTION HISTORY

PL 1985, c. 753, §§14,15 (NEW). PL 1989, c. 503, §B170 (AMD). RR 1993, c. 1, §108 (COR). PL 1993, c. 561, §1 (AMD). PL 1995, c. 502, §§C14-16 (AMD). PL 1995, c. 702, §1 (AMD). PL 1995, c. 702, §4 (AFF). PL 2001, c. 164, §§3-5 (AMD). PL 2005, c. 176, §2 (AMD). PL 2011, c. 7, §§1-3 (AMD). PL 2011, c. 548, §§22, 23 (AMD). PL 2019, c. 6, §§4-7 (AMD).

§4604. Powers and duties of the Maine Potato Board

In furtherance of the purposes of this chapter, the board shall have the following powers and duties.
[PL 1985, c. 753, §§14, 15 (NEW).]

1. Bylaws. The board may adopt bylaws to govern its functions and those of the assemblies and executive councils provided for in this chapter.
[PL 1995, c. 502, Pt. C, §17 (AMD).]

2. Programs. The board may make studies; undertake research, development and investment in infrastructure, marketing and promotional programs; publish and disseminate information; and implement other programs in furtherance of its legislative purposes as long as programs undertaken by the board are designed to benefit the Maine potato industry at large or segments of the industry and not designed to benefit exclusively any one person or entity involved in the industry. The board may use funds derived from sources other than the potato tax under section 4605 to carry out advertising and promotional programs in support of the industry.
[PL 2019, c. 6, §8 (AMD).]

3. Contracts. The board may enter into contracts and agreements with private and public entities that the board finds are in furtherance of its legislative purposes. The contracts and agreements may include, without limitation, those relating to the lease or purchase of office space, facilities, property, equipment and supplies as the board considers necessary for its purposes. The board may delegate to its executive director the power to enter into the contracts and agreements, subject to the board's oversight.
[PL 1995, c. 502, Pt. C, §17 (AMD).]

4. Funding; accounts. In addition to the money received by the board pursuant to section 4606, the board may receive and expend funds from any source, public or private, that it considers necessary to carry out its legislative purposes. The board shall establish an account, known as the seed potato account, to receive and expend funds for carrying out the board’s responsibilities under Title 7, chapter 403.
[PL 2009, c. 379, §6 (AMD).]

5. Books and records; confidentiality. The board shall keep books, records and accounts of all its activities, which must be open to inspection and audit by the State at all times. The State Auditor may conduct an annual audit of the financial records of the board and shall report the results of the audit to the board, the Commissioner of Agriculture, Conservation and Forestry, the Treasurer of State and the Legislature. All books and records of the board must be open to public inspection in accordance with Title 1, chapter 13, except that records and meetings of the board may by vote be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the Maine potato industry or segments of the industry.

[PL 2005, c. 176, §4 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

6. Assemblies and executive councils. The board shall oversee, communicate with and coordinate the work of assemblies and their executive councils. The board may make money available to enable the assemblies and executive councils to undertake functions in furtherance of this chapter, subject to the board's supervision.
[PL 1985, c. 753, §§14, 15 (NEW).]

SECTION HISTORY

PL 1985, c. 753, §§14,15 (NEW). PL 1987, c. 99, §20 (AMD). PL 1995, c. 502, §C17 (AMD). PL 2005, c. 176, §§3,4 (AMD). PL 2009, c. 379, §6 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2017, c. 288, Pt. A, §48 (AMD). PL 2019, c. 6, §8 (AMD).

§4605. Potato tax

1. Rate. Except as provided in subsection 1-A, a tax is levied and imposed at the rate of $.06 per hundredweight on all potatoes grown in this State.
[PL 2021, c. 681, Pt. F, §4 (AMD).]

1-A. Exemptions. The tax imposed by this section does not apply to:

A. Any potatoes that are retained by the grower to be used by the grower for seed purposes or for home consumption; [PL 2021, c. 681, Pt. F, §5 (NEW).]

B. Any potatoes received by a processor that are certified as unmerchantable by a federal state inspector; or [PL 2021, c. 681, Pt. F, §5 (NEW).]

C. Any potatoes grown on tribal land. [PL 2021, c. 681, Pt. F, §5 (NEW); PL 2021, c. 681, Pt. F, §6 (AFF).]
[PL 2021, c. 681, Pt. F, §5 (NEW); PL 2021, c. 681, Pt. F, §6 (AFF).]

2. Tax as additional. Any tax imposed and collected under this chapter shall be in addition to any other taxes imposed or collected under any other law of the State now or hereafter in force.
[PL 1985, c. 753, §§ 14, 15 (NEW).]

3. Due date. The tax shall be due upon any particular lot or quantity of potatoes as provided under subsection 6.
[PL 1985, c. 753, §§ 14, 15 (NEW).]

4. Application; certificate. A shipper of potatoes shall file an application with the assessor, on forms prescribed and furnished by the assessor, that contains the name or names under which the shipper is transacting business within the State, the place or places of business and location or locations of loading and shipping places and agents of the shipper, the names and addresses of the several persons constituting a firm or partnership of the shipper and, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the State. Upon receipt of a complete and valid application, the assessor shall issue a certificate to the shipper. A person may not act as a shipper until that certificate is issued to that person. The certificate may not be considered a license within the meaning of that term in Title 5, chapter 375.
[RR 2025, c. 1, Pt. F, §16 (COR).]

5. Tax deducted from selling price. A shipper who purchases, ships, receives, processes, handles or sells potatoes grown by another and pays, or becomes liable to pay, the tax imposed under this section shall charge and collect from the person from whom the potatoes were acquired an amount equal to 1/2 the rate of tax imposed under subsection 1, to be deducted or otherwise collected from the purchase price for all potatoes subject to the tax which are purchased, shipped, received, processed, handled or sold by the shipper.
[PL 1985, c. 753, §§ 14, 15 (NEW).]

6. Records and reports. Every shipper shall, on or before the last day of each month, report to the State Tax Assessor the quantity of potatoes received, sold or shipped by the shipper during the preceding calendar month and any additional information that the State Tax Assessor determines pertinent, on forms furnished by the State Tax Assessor. At the time of filing the report, each shipper shall pay to the State Tax Assessor a tax at the rate of $.06 per hundredweight upon all potatoes reported as purchased, sold or shipped, subject to subsection 1.
[PL 2011, c. 7, §5 (AMD).]

7. Inspections. The assessor or the assessor's duly authorized agent may enter any place of business of any shipper or any car, boat, truck or other conveyance in which potatoes are to be transported and to inspect books and records of any shipper for the purpose of determining what potatoes are taxable under this chapter and for the purpose of verifying any statement or return made by any shipper. The assessor may delegate all or part of that authority to agents of the board or of the Commissioner of Agriculture, Conservation and Forestry.
[RR 2025, c. 1, Pt. F, §17 (COR).]

SECTION HISTORY

PL 1985, c. 753, §§14,15 (NEW). PL 1991, c. 376, §58 (AMD). PL 2011, c. 7, §§4, 5 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2021, c. 681, Pt. F, §§4, 5 (AMD). PL 2021, c. 681, Pt. F, §6 (AFF). RR 2025, c. 1, Pt. F, §§16, 17 (COR).

§4606. Transfers of money received

Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, must be transferred to the board in its capacity as an independent agency on a monthly basis and used for all activities of the board authorized under this chapter. The board shall pay a sum to the State Tax Assessor representing the actual cost incurred by the State in collecting the taxes, except that the sum paid to the State Tax Assessor for collecting taxes may not be greater than 5% of the total tax collected annually. Notwithstanding section 4603, subsection 1, money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, must be allocated or appropriated to the board by the Legislature. [PL 2005, c. 176, §5 (AMD).]

1. Collection and enforcement.
[PL 1995, c. 502, Pt. C, §18 (RP).]

2. Board's activities.
[PL 1995, c. 502, Pt. C, §18 (RP).]

Money received by the Treasurer of State under this chapter, including all receipts of taxes levied under section 4605, may be appropriated and used for a one-time only transfer of funds to the Seed Potato Board, established by Title 7, chapter 403, equal to the Seed Potato Board's budget deficit for the fiscal year ending June 30, 1991 or $40,000, whichever is less. [PL 1991, c. 376, §59 (NEW).]

SECTION HISTORY

PL 1985, c. 753, §§14,15 (NEW). PL 1991, c. 376, §59 (AMD). PL 1995, c. 502, §C18 (AMD). PL 1995, c. 702, §2 (AMD). PL 1995, c. 702, §4 (AFF). PL 2005, c. 176, §5 (AMD).

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