

**§1036. Packing and inspection; shipping penalty; enforcement**

**1. Packing and inspection.** A person may not pack potatoes in a Maine bag, unless the person has given notice of intent to pack to the department, in such form as the department may require. [RR 2021, c. 1, Pt. B, §118 (COR).]

**2. Shipping.** No packer, shipper, dealer or broker shall prepare for market, send to market or arrange for the sale of, or have possession or control of any potatoes in a Maine bag which have not been determined at point of origin by a duly authorized inspector to have met the standards required by this article. For the purposes of this subsection, the production of an unrestricted, original certificate of inspection covering the entire manifest, or an original or copy of a certificate of inspection positively identifying the actual bags or containers in question shall be deemed to satisfy the requirements of this subsection. The commissioner may promulgate rules consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, to designate other circumstances which will be deemed to satisfy the requirements of this subsection. [PL 1987, c. 754, §4 (RPR).]

**2-A. Other than Maine bag.** No person may pack potatoes in any consumer pack on which the word "Maine" appears unless the pack is a Maine bag, except that the word "Maine" may appear on any consumer pack if it is the name and address of a producer, packer or any other person at the bottom of the pack and in letters not taller than 1/4 inch. [PL 1987, c. 99, §18 (NEW).]

**3. Penalty.** Any person who violates subsection 1 or 2-A is subject to section 957 and any person who violates subsection 2 is subject to the following civil penalties and administrative action:

- A. For the first violation, a forfeiture of \$500; [PL 1987, c. 754, §5 (NEW).]
- B. For the 2nd violation, a forfeiture of \$1,000; and [PL 1987, c. 754, §5 (NEW).]
- C. For the 3rd and subsequent violations, no less than \$1,500. [PL 1993, c. 699, §6 (AMD).]

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

[PL 1993, c. 699, §6 (AMD).]

**SECTION HISTORY**

PL 1981, c. 513, §§10,12 (NEW). PL 1987, c. 99, §§17,18 (AMD). PL 1987, c. 754, §§4,5 (AMD). PL 1993, c. 699, §6 (AMD). RR 2021, c. 1, Pt. B, §118 (COR).

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