

4:10-38 ET SEQ.

LEGISLATIVE HISTORY CHECKLIST

NJSA 4:10-38 et seq.

Laws of 1974 Chapter 164

Bill No. A 728

Sponsor(s) Barbour

Date Introduced Pre-filed

Committee: Assembly Agriculture & Environment

Senate Energy, Agriculture & Environment

Amended during passage Yes

~~NO~~ AMENDMENTS DURING
PASSAGE DENOTED
BY ASTERISKS

Date of passage: Assembly April 1

Senate Nov. 25

Date of approval Dec. 5

Following statements are attached if available:

Sponsor statement Yes ~~NO~~

Committee Statement: Assembly ~~NO~~ NO

Senate Yes ~~NO~~

Fiscal Note ~~NO~~ NO

Veto message ~~NO~~ NO

Message on signing ~~NO~~ NO

Following were printed:

Reports ~~NO~~ NO

Hearings ~~NO~~ NO

Concerning increase in penalties, sponsor's statement cites:

- 974.90 NJ Governor's Management Comm.
- R424 Survey report and recommendations.
- 1970c Nov., 1970.

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FEB 1977

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ASSEMBLY, No. 728

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Assemblyman BARBOUR

AN ACT to amend and supplement "An act concerning the marketing of open or closed packages containing potatoes, providing penalties and making an appropriation," approved June 25, 1963 (P. L. 1963, c. 116).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 5 of P. L. 1963, c. 116 (C. 4:10-38) is amended to read
2 as follows:

3 5. In order to provide for the orderly marketing of potatoes, the
4 board, *in accordance with the Administrative Procedure Act (P. L.*
5 *1968, c. 410, C. 52:14B-1 et seq.)* [shall have the power to] *may*
6 adopt rules and regulations not inconsistent with this act, for the
7 enforcement thereof.

1 2. Section 6 of P. L. 1963, c. 116 (C. 4:10-39) is amended to read
2 as follows:

3 6. The secretary is charged with the enforcement of this act and
4 for that purpose the secretary or his authorized agents shall have
5 power:

6 (a) To enter and inspect all premises and places within the
7 State where potatoes are produced, packed or stored for sale,
8 shipped, delivered for shipment, offered or exposed for sale, or
9 sold, and to inspect such places and all potatoes, potato containers
10 and equipment found in any such places.

11 (b) To [prohibit the movement] *issue and enforce a written*
12 *"stop sale, use, or removal" order to the owner or custodian of*
13 *any packages of potatoes found improperly marked in violation of*
14 *any provisions of this act, or rule or regulation adopted here-*
15 *under[.]. Such order may require that the packages be held at a*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

16 *designated place* until such packages of potatoes have been properly
 17 marked under this act, or rule or regulation adopted hereunder, and
 18 released by the secretary or his authorized agent.

1 3. Section 7 of P. L. 1963, c. 116 (C. 4:10-40) is amended to read
 2 as follows:

3 7. Any person***[**, except a contract or common carrier, acting in
 4 good faith and without knowledge of the violation, the burden of
 5 proof of which shall be with the contract or common carrier,]**]*** *who*
 6 **[at any individual location]** violates any provision of this act, or
 7 the rules and regulations issued pursuant thereto, shall be liable to
 8 a penalty of not less than \$50.00 nor more than \$100.00 for the first
 9 offense **[**and not less than \$100.00 nor more than \$200.00 for the
 10 second and each subsequent offense**]** *and a penalty of not less than*
 11 *\$100.00 nor more than \$200.00 for the second offense occurring within*
 12 *1 year. Persistent violators who commit a third or subsequent*
 13 *offense ***[at any individual location]*** within 1 year shall be liable*
 14 *to a penalty of not less than \$300.00 nor more than \$500.00 for each*
 15 *such offense. Every day upon which a violation occurs ***[at any***
 16 *individual location]* shall be considered to be a separate violation.*

17 Penalties set forth in this act shall be sued for by and in the
 18 name of the secretary and shall be recoverable with costs. County
 19 district courts and municipal courts shall have jurisdiction to en-
 20 force the provisions of this act and of any rule or regulation issued
 21 pursuant thereto. Any proceeding for a violation of this act may
 22 be brought in the county or municipality where the violator
 23 resides, has a place of business or principal office or where the act
 24 or omission or part thereof complained of occurred. The proceed-
 25 ing shall be summary in nature and in accordance with the Penalty
 26 Enforcement Law (N. J. S. 2A:58-1 et seq.).

27 The secretary may institute an action in the Superior Court for
 28 injunctive relief to prevent and restrain any violation of this act
 29 or any rules or regulations issued pursuant thereto.

1 4. Upon receiving any information of a violation of any provision
 2 of this act or of any rule or regulation adopted thereunder, the
 3 secretary or any agent designated by him for such purpose, is em-
 4 powered to hold hearings upon said violation and, upon finding
 5 the violation to have been committed, to assess a penalty against
 6 the violator in such amount, not to exceed the maximum limit set
 7 forth in section 7 of P. L. 1963, c. 116 (C. 4:10-40), as the secretary
 8 deems proper under the circumstances. If the violator pays such
 9 penalty as settlement, no further prosecution shall be had upon that

10 violation. Payment of such a penalty shall be deemed equivalent
11 to a conviction for violation of this act.

1 5. The secretary may cooperate with and enter into agreements
2 with agencies of this and other states, the Federal Government
3 and private associations in order to carry out the purpose and
4 provisions of this act and the act of which this act is amendatory
5 and supplementary.

1 6. This act shall take effect 30 days after enactment.

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STATEMENT

These amendments are necessary to up-date and streamline the enforcement procedures in the New Jersey Potato Labeling Law. The changes include: (1) the requirement that the State Board of Agriculture promulgate its rules and regulations in accordance with the Administrative Procedure Act; (2) a clarification of "stop sale" procedures; (3) an increase in the value of penalties to be levied as recommended by the Governor's Management Commission; (4) an administrative penalty section; and (5) the authority for the secretary to enter into cooperative agreements.

The above changes have been discussed with the individuals, groups and organizations affected.

SENATE ENERGY, AGRICULTURE AND
ENVIRONMENT COMMITTEE

STATEMENT TO
ASSEMBLY, No. 728
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1974

This bill provides that rules and regulations for the orderly marketing of potatoes be adopted in accordance with the Administrative Procedure Act (P. L. 1968, c. 410), that the "stop sale" procedure for improperly marked packages of potatoes be modified, that an administrative penalty may be assessed, and that the Secretary of Agriculture may enter into cooperative agreement.