

SENATE BILL No. 708

February 6, 1992, Introduced by Senators MC MANUS, GAST, KOIVISTO, BARCIA and WELBORN and referred to the Committee on Agriculture, Forestry, and Wildlife.

A bill to amend section 2 of Act No. 29 of the Public Acts of 1970, entitled

"An act relating to potatoes; to create a potato commission; to prescribe its powers and duties and authority; to impose an assessment on the privilege of introducing potatoes into the channels of trade and commerce; to provide for the collection of the assessment; to provide for penalties; and to repeal certain acts and parts of acts,"

as amended by Act No. 304 of the Public Acts of 1980, being section 290.422 of the Michigan Compiled Laws; and to add section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of Act No. 29 of the Public Acts of
2 1970, as amended by Act No. 304 of the Public Acts of 1980, being
3 section 290.422 of the Michigan Compiled Laws, is amended and
4 section 4a is added to read as follows:

1 Sec. 2. (1) The state potato industry commission is created
2 within the department. The commission shall be composed of the
3 director or a person designated by the director from the
4 director's staff, who shall serve ex officio, without vote; a
5 staff member of Michigan state university appointed by the dean
6 of agriculture of that university to serve at the pleasure of the
7 dean, ex officio, without vote; and 10 growers, 2 processors, 2
8 shippers, and 1 retailer appointed by the governor with the
9 advice and consent of the senate. A member appointed by the gov-
10 ernor shall be a citizen and resident of this state and of the
11 district from which appointed, shall be 18 years of age or older,
12 and shall be in compliance with this act. A commission member in
13 the grower category shall be engaged and have been engaged in
14 growing potatoes within this state for a period of not less than
15 2 years immediately before appointment, and shall have derived a
16 substantial portion of his or her income from this activity.

17 (2) Eight growers shall be appointed to serve on the commis-
18 sion, representing 7 districts throughout the state as follows:

19 District 1--Upper Peninsula counties shall be represented by
20 2 members. The following districts shall be represented by 1
21 member each: district 2--Antrim, Manistee, Wexford, Missaukee,
22 Roscommon, Mason, Lake, Osceola, Clare, Benzie, Charlevoix,
23 Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau,
24 and Otsego; district 3--Alcona, Alpena, Montmorency, Oscoda,
25 Presque Isle, Iosco, and Ogemaw; district 4--Kent, Montcalm,
26 Newaygo, Isabella, Mecosta, and Oceana; district 5--Bay, Arenac,
27 Midland, Tuscola, Huron, Sanilac, Gratiot, Gladwin, and Saginaw;

1 district 6--Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun,
2 Berrien, Cass, Clinton, Ionia, Ottawa, Muskegon, St. Joseph, and
3 Branch; district 7--Ingham, Livingston, Oakland, Macomb, Jackson,
4 Washtenaw, Wayne, Hillsdale, Lenawee, Shiawassee, Genesee,
5 Lapeer, St. Clair, and Monroe. The ninth and tenth growers
6 shall serve at large. The other members of the commission,
7 except the ex officio members, shall have been associated with
8 the potato industry for not less than 2 years immediately before
9 appointment.

10 (3) The term of office of an appointed member shall be 3
11 years. An appointed member shall not be eligible to serve more
12 than two 3-year terms in succession, after which the member may
13 be reappointed to the commission only after an absence of 3
14 years. The term of an appointed member shall expire on July 1,
15 except that a term shall continue until a successor is appointed
16 and qualified. If during a term a member ceases to possess any
17 of the qualifications prescribed in this act, that member's
18 office shall be vacated. A person appointed to fill a vacancy
19 shall serve for the remainder of the unexpired term and until a
20 successor is appointed and qualified.

21 (4) The commission shall conduct a meeting of growers and
22 shippers annually.

23 (5) The commission may conduct a meeting of growers in the
24 district where a vacancy will occur by expiration of a term, to
25 elect nominees for appointment to the commission. Instead of a
26 meeting, nominees may be selected by a vote of growers in the
27 district by mail ballot, providing ballots are mailed by the

1 commission to all growers of record, and in compliance with this
2 act. Not more than 2 nominees for each vacancy on the commission
3 shall be selected. The names of all nominees shall be placed on
4 a list of nominees recommended to the governor, and the governor
5 shall make appointments from that list. The growers at large
6 shall be nominated by a majority of the 8 growers representing
7 the districts. A majority of the 10 grower members shall nomi-
8 nate the processor, shipper, and retail candidates for appoint-
9 ment to the commission. Vacancies on the commission, except from
10 the expiration of term, shall be filled by the governor from nom-
11 inees selected by the commission. A person appointed as a com-
12 mission member shall qualify by filing a written acceptance and
13 oath of office within 10 days after being notified by the gover-
14 nor of the appointment.

15 (6) Annually, the commission members shall elect a chair-
16 person from among its appointed members. A majority of the
17 voting members of the commission constitutes a quorum for the
18 transaction of business and the carrying out of the duties of the
19 commission. The business which the commission may perform shall
20 be conducted at a public meeting of the commission held in com-
21 pliance with THE OPEN MEETINGS ACT, Act No. 267 of the Public
22 Acts of 1976, as amended, being sections 15.261 to 15.275 of the
23 Michigan Compiled Laws. Public notice of the time, date, and
24 place of the meeting shall be given in the manner required by Act
25 No. 267 of the Public Acts of 1976, as amended. Meetings of the
26 commission shall be called by the chairperson, except that

1 special meetings shall be called by the chairperson on petition
2 of 8 members no later than 7 days after receiving the petition.

3 (7) The per diem compensation of the appointed members of
4 the commission shall not exceed \$75.00 plus the reimbursement of
5 expenses incurred in attending a commission meeting.

6 (8) All funds of the commission shall be handled by the com-
7 mission and all funds received by it shall be used to implement
8 this act. Money received by the commission shall be deposited in
9 banks or other forms of security as may be designated by the
10 commission.

11 (9) Retailers, processors, and others may support the pro-
12 grams of the commission by paying an annual fee of \$100.00.

13 (10) The commission may accept gifts and grants.

14 (11) The commission shall maintain accurate books, records,
15 and accounts of its transactions, which books, records, and
16 accounts shall be open to inspection by the public and shall be
17 subject to audit by the auditor general or a certified public
18 accountant. A document prepared, owned, used, in the possession
19 of, or retained by the commission in the performance of an offi-
20 cial function shall be made available to the public in compliance
21 with THE FREEDOM OF INFORMATION ACT, Act No. 442 of the Public
22 Acts of 1976, as amended, being sections 15.231 to 15.246 of the
23 Michigan Compiled Laws, EXCEPT AS OTHERWISE PROVIDED IN
24 SECTION 4A.

25 (12) A financial report shall be prepared annually and made
26 available upon request.

1 SEC. 4A. (1) INFORMATION PROVIDED TO THE COMMISSION OR A
2 COMMITTEE ESTABLISHED UNDER SECTION 3 BY AN INDIVIDUAL PROCESSOR,
3 GROWER, OR SHIPPER RELATIVE TO THE QUANTITY OF POTATOES RECEIVED,
4 SOLD, OR SHIPPED, THE ASSESSMENTS IMPOSED UNDER SECTION 4, ANY
5 PENALTY FOR FAILURE TO PAY AN ASSESSMENT IMPOSED UNDER SECTION 5,
6 OR ANY OTHER INFORMATION RELATING TO AN INDIVIDUAL PROCESSOR,
7 GROWER, OR SHIPPER WHICH IS DISCLOSED TO THE COMMISSION OR A COM-
8 MITTEE PURSUANT TO THIS ACT IS EXEMPT FROM THE DISCLOSURE
9 REQUIREMENTS OF THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF
10 THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE
11 MICHIGAN COMPILED LAWS.

12 (2) SUBSECTION (1) DOES NOT PREVENT THE DIRECTOR OR THE
13 DEPARTMENT FROM OBTAINING INFORMATION NECESSARY TO CONFIRM COM-
14 PLIANCE WITH THIS ACT AND DOES NOT PREVENT THE DIRECTOR OR THE
15 DEPARTMENT FROM DISCLOSING STATISTICAL INFORMATION AS LONG AS
16 THAT DISCLOSURE DOES NOT REVEAL THE QUANTITY OF POTATOES
17 RECEIVED, SOLD, OR SHIPPED, THE ASSESSMENT IMPOSED UNDER
18 SECTION 4, ANY PENALTY FOR FAILURE TO PAY AN ASSESSMENT IMPOSED
19 UNDER SECTION 5, OR ANY OTHER INFORMATION RELATING TO AN INDIVID-
20 UAL PROCESSOR, GROWER, OR SHIPPER WHICH IS DISCLOSED TO THE COM-
21 MISSION OR A COMMITTEE PURSUANT TO THIS ACT.