



# HOUSE BILL No. 5204

October 5, 1995, Introduced by Reps. Gnodtke, Gernaat, Randall, McManus, Harder, Wetters, Oxender, Anthony, Green, Lowe and Cropsey and referred to the Committee on Agriculture and Forestry.

A bill to amend sections 4 and 8 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 sections 290.424 and 290.428 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4 and 8 of Act No. 29 of the Public  
2 Acts of 1970, as amended by Act No. 304 of the Public Acts of  
3 1980, being sections 290.424 and 290.428 of the Michigan Compiled  
4 Laws, are amended to read as follows:

5 Sec. 4. (1) An assessment at the rate of 1 cent per  
6 hundredweight on potatoes grown in the state shall be levied upon

1 each particular lot or quantity of potatoes and imposed upon each  
2 grower and each shipper within this state as provided by this  
3 act. The commission may, by a majority vote, raise the assess-  
4 ment by as much as an additional 1/2 cent per hundredweight. The  
5 increased assessment shall be continued if it is approved by a  
6 majority vote of those growers and shippers present at the next  
7 annual meeting.

8       (2) IN ADDITION TO THE ASSESSMENT IMPOSED IN SUBSECTION (1),  
9 AN ADDITIONAL ASSESSMENT MAY BE IMPOSED UPON GROWERS, OR THE  
10 ASSESSMENT IMPOSED UPON GROWERS PURSUANT TO THIS SUBSECTION MAY  
11 BE DECREASED, UPON THE RECOMMENDATION OF THE COMMISSION AND THE  
12 CONDUCT OF A REFERENDUM IN COMPLIANCE WITH SECTION 8(3).

13       (3) ~~-(2)-~~ Each grower shall pay the grower assessment on all  
14 potatoes grown in the state by the grower. The shipper shall  
15 deduct the grower assessment from money due the grower and remit  
16 the grower assessment to the commission. In addition, each ship-  
17 per shall pay to the commission the shipper assessment on all  
18 potatoes purchased, sold, or shipped in the state by the  
19 shipper.

20       (4) ~~-(3)-~~ The assessment shall not be imposed upon potatoes  
21 retained by a grower and used for the grower's own seed purposes  
22 or own home consumption.

23       (5) ~~-(4)-~~ Every shipper of potatoes shall file an applica-  
24 tion with the commission on forms prescribed and furnished by the  
25 commission which shall contain the name under which the shipper  
26 is transacting business within the state, the place or places of  
27 business and location of loading and shipping places and agents

1 of the shipper, the names and addresses of the persons  
2 constituting a firm or partnership and, if a corporation, the  
3 corporation name and the names and addresses of its principal  
4 officers and agents within the state. The commission shall issue  
5 a certificate to the shipper and a shipper shall not sell or ship  
6 potatoes until the certificate is furnished as required by this  
7 section.

8       (6) ~~-(5)-~~ Each shipper and grower shall keep as a part of  
9 his or her permanent records, a record of all purchases, sales,  
10 and shipments of potatoes, which records shall be open for  
11 inspection at all times. Each shipper and grower shall file a  
12 report with the commission stating the quantity of potatoes  
13 received, sold, or shipped by him or her, on forms to be fur-  
14 nished by the commission. The report to be prepared by each  
15 shipper shall be due not later than 15 days after the end of the  
16 calendar quarter. The report to be prepared by each grower shall  
17 be due not later than July 15 of each year. Both shippers and  
18 the growers shall report further pertinent information as the  
19 commission prescribes. With the filing of the report, each ship-  
20 per shall pay to the commission the assessment provided by this  
21 act.

22       Sec. 8. (1) For the purpose of the referenda under this  
23 act, each grower and shipper who is in compliance with section 4  
24 is entitled to 1 vote. The director shall promulgate rules pur-  
25 suant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306  
26 of the Public Acts of 1969, ~~as amended,~~ BEING SECTIONS 24.201

1 TO 24.328 OF THE MICHIGAN COMPILED LAWS, for conducting a  
2 referendum under this act.

3 (2) If the director receives a petition, bearing the signa-  
4 tures of not less than 33-1/3% of all shippers, to terminate the  
5 shipper assessments, the director shall conduct a referendum by  
6 mail. The shipper assessments shall be terminated if 1 of the  
7 following occurs:

8 (a) If more than 50%, by number, of the shippers voting rep-  
9 resenting more than 50% of the volume of potatoes purchased,  
10 sold, or shipped the previous year, vote in favor of terminating  
11 the assessment.

12 (b) If more than 50%, by number, of the shippers voting,  
13 representing more than 50% of the volume of potatoes purchased,  
14 sold, or shipped the previous year, vote in favor of terminating  
15 the assessment.

16 (3) IF THE DIRECTOR RECEIVES A RECOMMENDATION CONCERNING AN  
17 INCREASE OR DECREASE OF THE GROWER ASSESSMENT AS FURTHER  
18 DESCRIBED IN SECTION 4(2), THE DIRECTOR SHALL CONDUCT A REFEREN-  
19 DUM BY MAIL WITHIN 45 DAYS AFTER RECEIPT OF THAT RECOMMENDATION.  
20 THE COMMISSION SHALL ADOPT THE INCREASE OR DECREASE RECOMMENDED  
21 AND IMPLEMENT THAT RECOMMENDATION IF MORE THAN 50% BY NUMBER OF  
22 GROWERS REPRESENTING MORE THAN 50% OF THE VOLUME PRODUCED IN THE  
23 PREVIOUS YEAR ASSENT TO THE RECOMMENDATION.