

NEBRASKA POTATO DEVELOPMENT ACT

- Administration: This Act is administered by the Nebraska Department of Agriculture, Division of Potato Development, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. Telephone: (402) 471-2341.
- Advisory Committee: The Department of Agriculture is advised on matters relevant to the administration of the Act by the Nebraska Potato Development Committee.
- Revisions: The provisions of this Act were last revised during the 1997 session of the Nebraska Legislature.
- Rules: A regulation has been promulgated under this Act, known as Title 30, Chapter 1, Nebraska Administrative Code - Potato Development Regulations.

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2-1801. Act, how cited. Sections 2-1801 to 2-1811 may be cited as the Nebraska Potato Development Act.

2-1802. Division of Potato Development; established. There is hereby established a Division of Potato Development in the Department of Agriculture. The Director of Agriculture shall appoint the division head and any assistants as may be necessary to carry out the provisions of the Nebraska Potato Development Act.

2-1803. Nebraska Potato Development Committee; membership; appointment; term; powers; expenses. With the exception of the ex officio member, the Governor shall appoint an advisory committee to be known as the Nebraska Potato Development Committee. The committee shall be composed of three shippers and four growers from the industry and the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources who shall be an ex officio member. The Director of Agriculture shall be the chairperson. The committee shall adopt and provide rules and regulations for the conduct of the affairs of the Division of Potato Development and advise the director regarding the appointment of the division head and any assistants as may be appointed. The members of the committee shall serve without pay but shall receive actual and necessary expenses incurred while on official business as provided in sections 81-1174 to 81-1177. As the terms of office of such appointees expire, successors shall be appointed by the Governor for a period of two years and until their successors are appointed and qualified.

2-1804. Statement of policy; department; powers and duties. It is hereby declared to be the public policy of the State of Nebraska to protect and foster the health, prosperity, and general welfare of its people by conserving, developing, and promoting the state's potato industry. The Department of Agriculture shall be the agency of the State of Nebraska for such purpose. In connection therewith and in furtherance thereof, such department shall have the power, among other things, to:

- (1) Adopt and devise a program of education to promote better practices and methods in the production, storage, grading, and transportation of potatoes grown within the state;
- (2) disseminate information to landowners and to producers and shippers of potatoes that will enable them to increase the yield and improve the quality of potatoes;
- (3) undertake, at such times and in such manner as the department shall determine, an active advertising campaign to acquaint the general public with the high quality and the desirability of the use of potatoes grown in the State of Nebraska;
- (4) encourage and foster research designed to determine new and better methods of improving the yield and quality of Nebraska potatoes and of converting potatoes to various commercial and industrial uses;
- (5) enter into such contracts as may be necessary in carrying out the purposes of the Nebraska Potato Development Act and the

Nebraska Potato Inspection Act; (6) pay inspection and grading fees prescribed by the Nebraska Potato Inspection Act; and (7) conduct, in addition to the things enumerated, any other work for the improvement of Nebraska potatoes.

2-1805. Potato shipper; license required. After sections 2-1801 to 2-1811 shall have been in effect thirty days, it shall be unlawful for any person to act as or conduct the business of a potato shipper without having obtained and being the holder of a license from the Department of Agriculture as hereinafter provided.

2-1806. Potato shipper; license; application; issuance; display; records; cancellation and annulment of license; grounds; violations; penalty. Every person desiring to engage in business as a potato shipper shall file with the Department of Agriculture an application for a license in such form and detail as the department may prescribe. If it is found that there has been compliance with the provisions of sections 2-1801 to 2-1811 and the rules and regulations of the department issued in conformance therewith, a license shall forthwith be issued to the applicant.

Every person who engages in business as a potato shipper without having a license shall be guilty of a Class IV misdemeanor. Each licensed potato shipper shall display conspicuously in his place of business the license granted to him. Should the licensed potato shipper change his place of business he shall immediately notify the department. Each licensed potato shipper shall keep such records with respect to shipments of potatoes by him as the department may by regulation require. Such records shall be preserved for a period of not less than two years and be, at all times during business hours, subject to inspection by authorized agents of the department. In the event that a licensed potato shipper shall violate any of the provisions of sections 2-1801 to 2-1811 or the regulations of the department issued in conformance therewith, the department may, upon due notice and after full hearing, cancel and annul his license.

2-1807. Potato shipper; annual statement; excise tax; amount; violations; penalty. (1) Beginning July 1, 1997, every potato shipper shall render and have on file with the Department of Agriculture by the last day of July an annual statement under oath, on forms prescribed by the department, which shall set forth the number of pounds of potatoes grown in Nebraska which were sold or shipped by him or her during the preceding fiscal year beginning on July 1 and ending on June 30. For every potato shipper who was required to file an annual statement for calendar year 1996, a short period statement covering January 1, 1997, through June 30, 1997, shall be filed and the excise taxes paid by July 31, 1997, as required by this section. For every potato shipper who was required to file a quarterly statement for the period of January 1, 1997, through March 31, 1997, a final quarterly statement covering April 1, 1997, through June 30,

1997, shall be filed and the excise taxes paid by July 31, 1997, as required by this section. At the time the sworn statement is filed and in connection therewith, each such potato shipper shall pay and remit to the department an excise tax of not to exceed two cents per one hundred pounds upon the potatoes shown in such statement to have been sold, which tax is hereby levied and imposed. The tax shall be set in the manner prescribed in subsection (3) of this section. The department shall transmit to the State Treasurer all money, checks, drafts, or other mediums of exchange thus received. The department shall have authority to adjust all errors in making payment. Any such potato shipper who shall neglect or refuse to file such statement, or to pay the tax herein imposed, within the time prescribed, shall be guilty of a Class IV misdemeanor. No potatoes shall be subject to tax more than once under the Nebraska Potato Development Act.

(2) All excise taxes imposed by this section are delinquent on August 1 of the year due. The department shall impose a penalty of five percent per month of the excise taxes for each month or portion thereof such taxes are delinquent not to exceed one hundred percent of such taxes.

(3) The department shall, upon the recommendation of the committee, have the power to set the excise tax prescribed in subsection (1) of this section. The tax shall be one cent per one hundred pounds from July 19, 1980, until adjusted by the department. Adjusted rates shall be effective for periods of not less than one year. The applicable rate of the excise tax shall be prescribed in rules and regulations adopted by the department in the manner prescribed by law.

2-1808. Nebraska Potato Development Fund; creation; disbursement; investment. The State Treasurer is hereby directed to establish and set up in the treasury of the State of Nebraska a fund to be known as Nebraska Potato Development Fund, to which fund shall be credited, for the uses and purposes of the Nebraska Potato Development Act and its enforcement, all taxes, penalties and fees collected by the Department of Agriculture. After appropriation, the Director of Administrative Services, upon receipt of proper vouchers approved by the director of the department, shall issue his warrants on said funds and the State Treasurer shall pay the same out of the money credited to the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

2-1809. Department; rules and regulations; duties; criminal actions. The Department of Agriculture shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of sections 2-1801 to 2-1811. The department may call upon the Attorney General of Nebraska for legal assistance. All criminal actions

for the violation of any provisions of sections 2-1801 to 2-1811 shall be prosecuted by the Attorney General. It shall be the duty of the department to immediately report to the Attorney General any information coming into its possession concerning any violation of sections 2-1801 to 2-1811 or the failure or refusal of any person to comply therewith.

2-1810. Terms, defined. As used in the Nebraska Potato Development Act:

(1) Person shall mean and include any natural person, firm, partnership, limited liability company, association, or corporation;

(2) Potato shipper shall mean and include any person engaged in the business of shipping potatoes who, in any calendar year, sells one hundred eighty thousand pounds of potatoes grown in Nebraska, including potato growers who sell one hundred eighty thousand pounds of potatoes not through licensed shippers and any person who utilizes for any purpose in any calendar year one hundred eighty thousand pounds of potatoes grown in Nebraska not purchased from licensed shippers;

(3) Potato grower shall mean the actual grower within the State of Nebraska of at least three acres of potatoes during the crop year; and

(4) Department shall mean the Department of Agriculture.

2-1811. Violation; penalty. Any person violating any of the provisions of sections 2-1801 to 2-1811 shall be guilty of a Class II misdemeanor.

2-1812. Applicability of sections. Section 2-1807 and subdivision (2) of section 2-1810 shall not apply to the shipping or utilizing of seed potatoes grown in Nebraska and planted in the state by the grower or shipper.

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