

LD 1667 – Resolve, to Allow Hemphill Farms, Inc. to Sue the State.

Senator Carney, Representative Kuhn and Members of the Judiciary Committee, my name is Garrett Hemphill, along with my parents and three brothers, we own Hemphill Farms, Inc., of Presque Isle, Maine. I am the fifth generation of Hemphill's that have grown seed potatoes on this land. My hope is that my children, nieces and nephews will be the sixth generation.

I am here with a concern about Bacterial Ring Rot ("BRR") a serious potato disease that can spread through infected potatoes, equipment and even on shoes and clothing. There is zero tolerance for BRR on potato seed lots. In 2023, a BRR problem went undetected by the seed certification program and we shipped these potatoes to eight growers which resulted in severe losses on over 2,000 acres. In 2024, BRR went undetected again in the field.

In 2024, we grew 502 acres on over 40 different fields. All the potatoes on Hemphill Farms were entered in the Maine State Seed Certification Program for a BRR check. We pay more than \$25,000 per year to the Department for inspections. Before top kill in 2024, we advised of our plan to top kill our potatoes and our Inspector said he would complete a BRR inspection. He soon called and said he had completed the BRR check and we were able to proceed with the top kill.

On November 7, 2024, our 88-acre seed lot was rejected for BRR from an elective positive lab test. We later obtained tests of every seed lot through the Maine Potato Disease Testing Laboratory and four lots out of nine seed lots tested positive for BRR. This was discovered only because we were shipping seed potatoes to Canada and lab testing was required. Without this test, we would likely have infected more Maine growers from this seed lot.

We now believe that the Maine Seed Potato Inspection Service missed the BRR in 2024 but also in 2023. We have concern whether the required BRR checks were performed on all fields as required.

We believe there are three problems with how the State of Maine is failing to follow its own rules:

1. Import inspections are not being performed as required under Rule 255.E.6.a.i.;
2. There is no record showing the third BRR check was performed as mandated to take place on all seed and processing acres after the second field inspection but before the top kill. Rule 252;

3. The State of Maine is not conducting any inspections at the time of packing seed potatoes if the packing is for an intrastate sale of seed. Rule 253.I.

We made a Freedom of Access request asking for information pertaining to the BRR inspection. All that was provided by the State of Maine was the summer field reading results but nothing to do with BRR. We asked for this because there were serious concerns about whether field tests were being thoroughly conducted with the correct training or conducted at all. The Department told us they have no record of a BRR check even though the seed was all certified. Our inspector says it was done but the only record is the attached 2024 "Field Inspection for Seed Potatoes". The attached photos show it was not performed.

We are asking for the opportunity to prove that the State of Maine Department of Agriculture is failing to perform the inspections required by law and is not following its own rules. We are hiring an expert on potato diseases to assist us in proving this case.

On behalf of my family and potato growers in the State of Maine, I ask for your support of LD 1667.