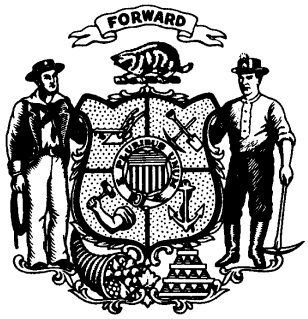
State of Wisconsin



Date of enactment: December 9, 2025

2025 Senate Bill 164

Date of publication*: December 10, 2025

2025 WISCONSIN ACT 66

AN ACT ***to renumber and amend*** 94.36 (1) (a) and 94.36 (1) (b); ***to amend*** 94.36 (1) (title); ***to repeal and recreate*** 94.36 (3); ***to create*** 94.36 (2m) of the statutes; **relating to:** use of certified seed potatoes in planting potatoes and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 94.36 (1) (title) of the statutes is amended to read:

94.36 **(1)** (title) PROHIBITION~~; WAIVER~~.

SECTION 2. 94.36 (1) (a) of the statutes is renumbered 94.36 (1) and amended to read:

94.36 **(1)** Except as provided in ~~par. (b),~~ sub. (1m), no person may plant 5 or more acres of potatoes in this state in a calendar year unless all of the seed potatoes that will be used for planting in this state by the person are certified under ch. ATCP 156, Wis. Adm. Code.

SECTION 3. 94.36 (1) (b) of the statutes is renumbered 94.36 (1m) and amended to read:

94.36 **(1m)** WAIVER. The department, upon the request of one or more growers, may waive the prohibition under ~~par. (a)~~ sub. (1) for seed potatoes of a specific variety or genotype for a growing season if there are not enough certified seed potatoes of that variety or genotype reasonably available to growers during that calendar year and the department determines that the seed potatoes of that variety or genotype that will be used for planting do not pose a serious disease threat. The department may include as a condition of a waiver provided under this subsection restrictions as to permissible geographic boundaries or geographic limitations where a person may plant the waived seed potatoes.

SECTION 4. 94.36 (2m) of the statutes is created to read:

94.36 **(2m)** ENFORCEMENT. (a) 1. If the department finds a violation of sub. (1) or a condition of a waiver made under sub. (1m), the department may issue an order directing the violator to remove and destroy any seed potatoes and potatoes involved in the violation, and the violator shall cause the removal and destruction as so ordered within 72 hours after the order is issued in the manner directed in the order. The department may extend the 72-hour period for compliance under this paragraph if it determines that the removal and destruction cannot be completed within that time.

2. No person may violate the terms of any order given under subd. 1., nor may any damages be awarded to a person who plants potatoes in violation of sub. (1) or in violation of a condition of a waiver made under sub. (1m) for any removal or destruction completed as a result of an order given under subd. 1.

3. If a person fails to comply with the terms of an order within the time period as required or extended under subd. 1., the department or any cooperating local unit of government may proceed to remove and destroy any seed potatoes or potatoes involved in the violation as or-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

dered by the department. The expense of action taken under this subdivision shall be certified to the clerk of the applicable local unit of government, and shall be thereafter assessed, collected, and enforced against the person as taxes for the person are assessed, collected, and enforced and paid to the cooperating local unit of government that incurred the expense, or paid into the general fund if the removal and destruction was conducted by the department.

(b) Orders issued under par. (a) shall have the force and effect of an order under s. 93.18, and are subject to the right of hearing before the department if requested within 10 days after the date of service of the order. Any party affected by the order may request a preliminary or informal hearing pending the scheduling and conduct of a full hearing.

SECTION 5. 94.36 (3) of the statutes is repealed and recreated to read:

94.36 **(3)** PENALTIES. (a) Except as provided in par. (b), a person who plants potatoes in violation of sub. (1) in a calendar year, who violates a condition of a waiver made under sub. (1m), or who fails to retain, allow inspection of, or provide copies of records in violation of sub. (2) in a calendar year shall forfeit not more than $5,000, plus not more than $5,000 for each full acre planted in violation of sub. (1) or (1m).

(b) The department may waive a forfeiture required under par. (a) for a violation of sub. (1) or (1m) if the department determines that all seed potatoes and potatoes involved in the violation were removed and destroyed in compliance with an order issued under sub. (2m) (a) 1.