

CHAPTER 617

LICENSE SUSPENSION

SUBCHAPTER 1

SUSPENSION PROCEEDINGS

ARTICLE 1

SUSPENSION ON CONVICTION

§6351. Suspension based on criminal conviction or civil adjudication

1. Grounds for suspension. Any of the following is grounds for suspension of a license, the right to obtain a license or a certificate issued under this Part:

A. A conviction for a violation of a marine resources law; [PL 2001, c. 421, Pt. B, §15 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

B. A conviction for a violation of Title 17-A, chapter 31; [PL 2001, c. 421, Pt. B, §15 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

B-1. A conviction for a violation of Title 17-A, chapter 15; [PL 2009, c. 394, §1 (NEW).]

B-2. A conviction for a violation of Title 17-A, section 802 that is directly related to an activity for which a lobster and crab fishing license is required; [PL 2017, c. 197, §1 (NEW).]

B-3. A conviction for a violation of Title 17-A, section 805 that is directly related to an activity for which a lobster and crab fishing license is required; [PL 2017, c. 197, §1 (NEW).]

C. A conviction for a criminal offense against a marine patrol officer while that officer is engaged in the performance of official duty; [PL 2009, c. 394, §1 (AMD).]

D. A civil adjudication of having violated a marine resources law; or [PL 2009, c. 394, §1 (AMD).]

E. A suspension authorized under section 6409 or 6410. [PL 2009, c. 394, §1 (NEW).]
[PL 2017, c. 197, §1 (AMD).]

2. Suspension procedure. In order to suspend a license or certificate because of a conviction or adjudication, the commissioner shall follow the procedures of this article.
[PL 2001, c. 421, Pt. B, §15 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

3. Denial of license. An applicant for any license or certificate as set out in this chapter may be denied a license or certificate in the same manner as provided for in this section.
[PL 2009, c. 394, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1995, c. 218, §1 (AMD). PL 2001, c. 421, §B15 (RPR). PL 2001, c. 421, §C1 (AFF). PL 2009, c. 394, §§1, 2 (AMD). PL 2017, c. 197, §1 (AMD).

§6352. Notice

The commissioner shall give notice of a suspension or a revocation and may give an opportunity for a hearing to the holder. [PL 2009, c. 151, §1 (RPR).]

1. Time of notice. Notice must be given within 60 days of the conviction or adjudication pursuant to section 6351 and must be mailed to the last known address as provided in the department's marine resources licensing and enforcement database or be served in hand.

[PL 2009, c. 151, §1 (RPR).]

2. Nature of notice. The notice must contain:

A. A statement of the conviction or adjudication pursuant to section 6351; [PL 2009, c. 151, §1 (NEW).]

B. The reason and statutory grounds for the suspension or revocation; [PL 2009, c. 151, §1 (NEW).]

C. The effective date of the suspension or revocation; and [PL 2009, c. 151, §1 (NEW).]

D. The opportunity for a hearing, should one exist. [PL 2009, c. 151, §1 (NEW).]

[PL 2009, c. 151, §1 (RPR).]

3. Hearing.

[PL 2009, c. 151, §1 (RP).]

4. Receipt date. The notice is deemed received 3 days after the mailing.

[PL 2009, c. 151, §1 (NEW).]

5. Effective date of suspension or revocation. A suspension or revocation is effective on the date specified by the commissioner on the notice, which may not be less than 10 days after the mailing of the notice of suspension or revocation by the commissioner.

[PL 2009, c. 151, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1981, c. 433, §7 (AMD). PL 1991, c. 390, §3 (AMD). PL 2009, c. 151, §1 (RPR).

§6353. Hearing

1. Request for hearing; place of hearing. A hearing must be requested in writing within 10 days from the effective date of the suspension. If requested, it must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area.

[PL 2009, c. 151, §2 (RPR).]

2. Evidence. At the hearing, the holder or the department may present any evidence concerning the violation.

[PL 2009, c. 151, §3 (AMD).]

3. Decisions. Decisions of the commissioner must be in writing. The commissioner may reinstate the license or certificate or reduce the suspension period if the commissioner is satisfied that to do so would be in the best interests of justice, except that the commissioner may not reduce suspensions set by statute.

[PL 1991, c. 390, §4 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1991, c. 390, §4 (AMD). PL 2009, c. 151, §§2, 3 (AMD).

ARTICLE 2

SUSPENSION WITHOUT CONVICTION

§6371. Administrative suspension

1. Suspension for refusal to allow inspection. Refusal to allow inspection or seizure under section 6306 is grounds for suspension of any licenses issued under marine resources laws. In order to suspend a license because of a refusal to allow inspection or seizure, the commissioner shall follow the procedures of section 6372.

[PL 2001, c. 421, Pt. B, §16 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

2. Suspension for refusal to allow a shellfish inspection by a department shellfish inspector. Refusal to allow a shellfish inspection under section 6856 is grounds for suspension of any licenses or certificates issued under marine resources laws. In order to suspend a license or certificate under this subsection, the commissioner shall follow the procedures of section 6372.

[PL 2011, c. 598, §18 (AMD).]

3. Suspension for violations. Except as provided in subsections 1 and 2, the commissioner may suspend any licenses or certificates issued under this Part on the following grounds:

A. Violation of any section of marine resources laws or rules adopted under this Part; [PL 2017, c. 197, §2 (NEW).]

B. The commission of conduct as provided in subsection 4; or [PL 2017, c. 197, §2 (NEW).]

C. Setting fire to, sinking or damaging a vessel used to carry out the activities authorized under a lobster and crab fishing license to such an extent that the vessel cannot be used to carry out those activities by the person who has that vessel named on the person's lobster and crab fishing license. [PL 2017, c. 197, §2 (NEW).]

[PL 2017, c. 197, §2 (RPR).]

4. Suspensions for certain violations of Title 17-A. Conduct that would constitute a violation of any of the following provisions is grounds for suspension under section 6374 of any licenses or certificates issued under this Part:

A. Title 17-A, section 353, when the offense is directly related to an activity for which a lobster and crab fishing license is required; [PL 2017, c. 197, §3 (NEW).]

B. Title 17-A, section 359, when the offense is directly related to an activity for which a lobster and crab fishing license is required; [PL 2017, c. 197, §3 (NEW).]

C. Title 17-A, section 751, when the offense is committed against a marine patrol officer while that officer is engaged in the performance of official duty; [PL 2017, c. 197, §3 (NEW).]

D. Title 17-A, section 752-A, when the offense is committed against a marine patrol officer while that officer is engaged in the performance of official duty; [PL 2017, c. 197, §3 (NEW).]

E. Title 17-A, section 753, when the offense is directly related to an investigation by the Bureau of Marine Patrol; [PL 2017, c. 197, §3 (NEW).]

F. Title 17-A, section 754, when the offense is directly related to an investigation by the Bureau of Marine Patrol; [PL 2017, c. 197, §3 (NEW).]

G. Title 17-A, section 802, when the offense is directly related to an activity for which a lobster and crab fishing license is required; [PL 2017, c. 197, §3 (NEW).]

H. Title 17-A, section 805, when the offense is directly related to an activity for which a lobster and crab fishing license is required; or [PL 2017, c. 197, §3 (NEW).]

I. Title 17-A, section 207, 209, 210, 210-A or 211, when the offense is committed against a marine patrol officer or a family member of a marine patrol officer as a result of the marine patrol officer performing what the license holder knows or has reason to know are the marine patrol officer's official duties. As used in this paragraph, "family member" means a spouse, sibling, child's spouse,

parent by blood, parent by adoption, spouse's parent, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent. [RR 2021, c. 2, Pt. B, §49 (COR).]
[RR 2021, c. 2, Pt. B, §49 (COR).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1999, c. 547, §B29 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 421, §B16 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2009, c. 561, §12 (AMD). PL 2011, c. 311, §1 (AMD). PL 2011, c. 598, §18 (AMD). PL 2017, c. 197, §§2, 3 (AMD). RR 2017, c. 1, §5 (COR). RR 2021, c. 2, Pt. B, §49 (COR).

§6372. Procedure for suspending on refusal to allow inspection

Notwithstanding the Maine Administrative Procedure Act, the procedure for suspending a license for refusal to allow inspection or seizure under section 6306 or refusal to allow inspection under section 6852, subsection 2-A or section 6856 is as follows. [PL 2011, c. 598, §19 (AMD).]

1. Initiation and suspension. A marine patrol officer may deliver to the commissioner a written statement under oath that a person has refused to allow inspection or seizure under section 6306. The commissioner, on receipt of the affidavit, shall immediately notify the person in writing that the person's license has been suspended.
[RR 2021, c. 2, Pt. B, §50 (COR).]

2. Notice. The notice shall state that there is an opportunity for a hearing, if it is requested in writing within 10 days of the notice.
[PL 1977, c. 661, §5 (NEW).]

3. Hearing. Any hearing shall be held within 3 business days after receipt of the request for the hearing. A hearing may be held more than 3 business days after the request if the request states in writing that the delay was voluntarily requested by the license holder. The hearing shall be held in accordance with the following provisions of the Maine Administrative Procedure Act, Title 5, chapter 375:

A. Evidence, Title 5, section 9057, except the issues are limited to whether the licensee had a license and whether the licensee refused inspection; [PL 2009, c. 151, §4 (AMD).]

B. Notice, Title 5, section 9058; [PL 1977, c. 661, §5 (NEW).]

C. Record, Title 5, section 9059; [PL 1977, c. 661, §5 (NEW).]

D. Decisions, Title 5, section 9061, except the decision shall be made not more than one business day after completion of the hearing; and [PL 1977, c. 661, §5 (NEW).]

E. Presiding officer, Title 5, section 9062, subsections 3 and 4, except the presiding officer shall be the commissioner or deputy commissioner. [PL 1977, c. 661, §5 (NEW).]

[PL 2009, c. 151, §4 (AMD).]

4. Stay. Upon written request, the commissioner may delay the suspension pending the determination of the original hearing or the appeal, if the commissioner finds that suspension will cause undue hardship.
[RR 2021, c. 2, Pt. B, §51 (COR).]

5. Appeal. The decision of the commissioner may be appealed to the Superior Court, if it is filed with the court within 30 days of the decision.
[PL 1977, c. 661, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 541, §B15 (AMD). PL 2009, c. 151, §4 (AMD). PL 2011, c. 311, §2 (AMD). PL 2011, c. 598, §19 (AMD). RR 2021, c. 2, Pt. B, §§50, 51 (COR).

§6373. Procedure for suspending for violation of a shellfish provision**(REPEALED)**

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1999, c. 547, §B30 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2011, c. 311, §3 (RP).

§6374. Procedure for suspending without criminal conviction or civil adjudication

The procedure for suspending a license or certificate under section 6371, subsection 3 is governed by this section. [PL 2023, c. 207, §10 (AMD).]

1. Initiation and notice. If the Chief of the Bureau of Marine Patrol delivers to the commissioner a written statement under oath that the chief has probable cause to suspect that a violation of marine resources law or conduct described in section 6371, subsection 3 has been committed, the commissioner shall immediately examine the affidavit and determine if a suspension is necessary. If the commissioner determines based on a preponderance of the evidence that a suspension is necessary, the commissioner shall immediately notify in writing the person who violated the law or engaged in the conduct. The notice must state that there is an opportunity for a hearing, if the person requests the hearing in writing within 10 days of the notice. The notice is deemed received 3 days after the mailing. The commissioner may suspend the license or certificate of a person who has been notified pursuant to this subsection but who does not request a hearing within the allowed time.

[PL 2023, c. 207, §11 (AMD).]

2. Hearing. A hearing requested under subsection 1 must be held within 30 business days after receipt by the commissioner of a request for hearing except that a hearing may be held more than 30 business days after the request if the delay is requested by the person requesting the hearing. If the hearing is continued, it must be held no later than 60 days after the original notice, and any further continuance must be with the consent of both parties. The hearing must be held in accordance with the Maine Administrative Procedure Act, except that:

A. Notwithstanding Title 5, section 9057, the issues of the hearing are limited to whether the person requesting the hearing committed a violation of marine resources law or conduct described in section 6371, subsection 3; and [PL 2023, c. 207, §12 (AMD).]

B. Notwithstanding Title 5, section 9061, the decision of the presiding officer under Title 5, section 9062 must be made not more than 10 business days after completion of the hearing. [PL 2011, c. 311, §4 (NEW).]

If the presiding officer of the hearing finds that a violation of marine resources law or conduct described in section 6371, subsection 3 has been committed, the presiding officer shall immediately notify the commissioner of the finding.

[PL 2023, c. 207, §12 (AMD).]

3. Finding of violation and suspension. The commissioner may suspend the license or certificate of the person requesting the hearing under subsection 2 if the presiding officer of the hearing finds that a violation of marine resources law or conduct described in section 6371, subsection 3 has been committed. Except as provided in this subsection and subsection 3-A, the length of the suspension of the license or certificate may not exceed:

A. One year from the date of a first finding of a violation or finding that conduct described in section 6371, subsection 3 has been committed; [PL 2023, c. 207, §13 (AMD).]

B. Two years from the date of a 2nd finding of a violation or finding that conduct described in section 6371, subsection 3 has been committed; or [PL 2023, c. 207, §13 (AMD).]

C. Three years from the date of a 3rd or subsequent finding of a violation or finding that conduct described in section 6371, subsection 3 has been committed. [PL 2023, c. 207, §13 (AMD).]

The commissioner may suspend any license or certificate for a period of time not to exceed the maximum amount of time allowable for a criminal conviction or civil adjudication of the same violation.

[PL 2023, c. 207, §13 (AMD).]

3-A. Finding of violation and suspension; specific violations. The length of a suspension of a license or certificate under this section for the following violations or conduct is:

A. Not less than 2 years and not more than 6 years from the date of a first finding of a violation, not less than 2 years and not more than 10 years from the date of a 2nd violation and permanent for a 3rd violation of section 6434; [PL 2017, c. 197, §4 (NEW).]

B. Not less than 3 years and not more than 10 years from the date of a first finding of a violation and permanent for a 2nd violation of section 6431-F, subsection 4; [PL 2017, c. 197, §4 (NEW).]

C. Not less than 3 years and not more than 10 years from the date of a first finding of a violation and permanent for a 2nd violation of section 6432, subsection 2, paragraph B; [PL 2017, c. 197, §4 (NEW).]

D. Not less than 4 years from the date of a finding of a violation of section 6438-A; [PL 2019, c. 163, §2 (AMD).]

E. Permanent for conduct that is grounds for suspension under section 6371, subsection 3, paragraph C; and [PL 2019, c. 163, §2 (AMD).]

F. Permanent for a first finding of a violation of section 6505-A, subsection 1-D. [PL 2019, c. 163, §3 (NEW).]

[PL 2019, c. 163, §§2, 3 (AMD).]

4. Prohibition against multiple suspensions. If the commissioner suspends a license or certificate under this section, the commissioner may not suspend the license or certificate because of a criminal conviction or civil adjudication for the same violation.

[PL 2011, c. 311, §4 (NEW).]

5. Appeal. A decision of the commissioner to suspend a license or certificate pursuant to this section may be appealed to the Superior Court if it is filed with the court within 30 days of the decision. [PL 2011, c. 311, §4 (NEW).]

6. Request for hearing on suspension length; place of hearing. The license or certificate holder may request a hearing regarding the length of suspension under this section. A hearing must be requested in writing within 10 days from the effective date of the suspension. The hearing must be held within 10 days of the request unless a longer period of time is mutually agreed to in writing. The hearing must be conducted in the Augusta area.

[PL 2011, c. 311, §4 (NEW).]

7. Vessel monitoring following suspension or revocation. The commissioner may require a person whose lobster and crab fishing license was suspended or revoked pursuant to subsection 3-A or section 6402, 6402-D, 6402-E or 6404 or section 6371, subsection 3, paragraph C to install equipment that allows the department to track the geographic location of the vessel listed on that person's lobster and crab fishing license for a period immediately following the reinstatement of the license not to exceed the duration of the license suspension. Costs associated with equipment required to be installed under this subsection must be paid by the license holder.

[PL 2017, c. 197, §4 (NEW).]

SECTION HISTORY

PL 2011, c. 311, §4 (NEW). PL 2011, c. 598, §20 (AMD). PL 2013, c. 468, §10 (AMD). PL 2015, c. 172, §§4, 5 (AMD). PL 2017, c. 197, §4 (AMD). PL 2019, c. 163, §§2, 3 (AMD). PL 2023, c. 207, §§10-13 (AMD).

SUBCHAPTER 2

SUSPENSION PENALTIES

§6401. Suspension or revocation based on conviction or adjudication

1. Violation of marine resources laws. Notwithstanding specific penalties authorized under this Part, the commissioner may suspend any licenses or certificates issued under this Part if a person is convicted or adjudicated in court of violating any section of the marine resources laws.

[PL 2013, c. 468, §11 (AMD).]

2. Length of suspension. The suspension of a license or certificate may not exceed:

A. One year from the date of the first conviction or adjudication; [PL 2001, c. 421, Pt. B, §17 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

B. Two years from the date of the 2nd conviction or adjudication; and [PL 2001, c. 421, Pt. B, §17 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

C. Three years from the date of the 3rd or subsequent conviction or adjudication. [PL 2001, c. 421, Pt. B, §17 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

[PL 2001, c. 421, Pt. B, §17 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

3. Applicable standards. Any conviction or adjudication occurring more than 7 years before the last conviction or adjudication may not be counted in determining lengths of suspension.

[PL 2001, c. 421, Pt. B, §17 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

4. Revocation following 6 or more violations. The commissioner may permanently revoke any licenses or certificates of a license holder or certificate holder following the conviction or adjudication of the license holder or certificate holder for a 6th or subsequent violation of marine resources laws.

[PL 2013, c. 468, §11 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1985, c. 43 (AMD). PL 2001, c. 421, §B17 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2013, c. 468, §11 (AMD).

§6402. Suspension or revocation based on conviction of molesting

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of a license holder or the nonresident lobster and crab landing permit of a permit holder convicted of violating section 6434 for not less than 2 years and not more than 6 years from the date of a first conviction and not less than 2 years and not more than 10 years from the date of a 2nd conviction. For a 3rd or subsequent conviction, the commissioner shall permanently revoke the person's license or permit. [PL 2017, c. 197, §5 (AMD).]

1. Convictions for cutting lobster trap lines. A person convicted under section 6434 of molesting lobster gear by cutting a lobster trap line shall, upon making full payment as ordered by the court under section 6434, subsection 4, paragraph A, provide the commissioner with proof of that payment. If the commissioner does not receive that proof within 3 years after the date of conviction, the commissioner shall continue that license suspension until such time as that proof is received.

[PL 2017, c. 197, §5 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1993, c. 543, §1 (AMD). PL 2007, c. 201, §1 (AMD). PL 2009, c. 151, §5 (AMD). PL 2009, c. 394, §3 (AMD). PL 2009, c. 561, §13 (AMD). PL 2017, c. 197, §5 (AMD).

§6402-A. Suspension based on conviction of dragging in cable area

For any person convicted in court of violating section 6954 or 6954-A, the commissioner shall suspend the license authorizing the activity in which the person was engaged at the time of the violation. The suspension shall be for one year from the date of the conviction. [PL 1987, c. 1, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 179, §1 (NEW). PL 1987, c. 1, §1 (AMD).

§6402-B. Suspension based on 2 or more convictions of possessing illegal lobsters

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license of any license holder or the nonresident lobster and crab landing permit of a permit holder convicted of a 2nd or subsequent offense of possessing a lobster in violation of section 6431, 6436, 6438-A or 6952-A if the conviction of the 2nd or subsequent offense involved possession of 5 or more illegal lobsters. If the 2nd offense occurs on the same day as the first offense, the commissioner may waive the mandatory suspension. [PL 2009, c. 394, §4 (AMD).]

1. Second offense. For a 2nd conviction the commissioner shall suspend the license for at least one year from the date of conviction and may suspend the license for up to 3 years. [PL 1995, c. 315, §1 (NEW).]

2. Third or subsequent offense. For a 3rd or subsequent conviction, the commissioner shall suspend the license for 3 years from the date of conviction and may permanently revoke the license holder's license. [PL 1995, c. 315, §1 (NEW).]

3. Offenses after July 1, 1994.
[PL 2009, c. 394, §4 (RP).]

SECTION HISTORY

PL 1993, c. 550, §1 (NEW). PL 1995, c. 315, §1 (AMD). PL 2007, c. 201, §2 (AMD). PL 2009, c. 394, §4 (AMD).

§6402-C. Suspension based on 2 or more convictions of dragging within the prohibited area surrounding aquaculture operations

For any person convicted of a 2nd or subsequent offense of section 6957, subsection 1, the commissioner shall suspend the license authorizing the activity in which the person was engaged at the time of the violation. The suspension is for 5 years from the date of conviction. [PL 1995, c. 169, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 169, §1 (NEW).

§6402-D. Suspension or revocation based on conviction of fishing over trap limit

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab fishing license or nonresident lobster and crab landing permit of a person convicted of a violation of section 6431-F, subsection 4 for not less than 3 years and not more than 10 years from the date of a first conviction. For a 2nd conviction, the commissioner shall permanently revoke the person's license or permit. [PL 2017, c. 197, §6 (NEW).]

SECTION HISTORY

PL 2017, c. 197, §6 (NEW).

§6402-E. Suspension or revocation based on conviction of fishing sunken trap or trawl

Notwithstanding section 6401, subsection 2, the commissioner shall suspend the lobster and crab landing license or nonresident lobster and crab landing permit of a person convicted of a violation of section 6432, subsection 2, paragraph B for not less than 3 years and not more than 10 years from the date of a first conviction. For a 2nd conviction, the commissioner shall permanently revoke the person's license or permit. [PL 2017, c. 197, §6 (NEW).]

SECTION HISTORY

PL 2017, c. 197, §6 (NEW).

§6403. Suspension based on refusing inspection or seizure

The commissioner may suspend any and all licenses issued under this Part if the license holder refuses to allow inspection or seizure under section 6306. This suspension may not exceed one year. [PL 1977, c. 661, §5 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW).

§6404. Revocation based on conviction of scrubbing lobsters

The commissioner may permanently revoke the lobster and crab fishing license, wholesale seafood license and the commercial fishing license of any license holder or the nonresident lobster and crab landing permit of a permit holder convicted in court of violating section 6438-A. [PL 2017, c. 197, §7 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1995, c. 468, §2 (AMD). PL 2007, c. 201, §3 (AMD). PL 2015, c. 172, §6 (AMD). PL 2017, c. 197, §7 (AMD).

§6404-A. Suspension or revocation based on conviction of molesting elver gear

The commissioner shall suspend or revoke the elver fishing license of any license holder convicted of violating section 6575-D. [PL 2013, c. 49, §3 (AMD).]

1. First offense. For a first offense, the commissioner shall suspend the license holder's license for 3 years.
[PL 2011, c. 549, §1 (NEW).]

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.
[PL 2011, c. 549, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 536, §A5 (NEW). PL 2001, c. 421, §B18 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2011, c. 549, §1 (AMD). PL 2013, c. 49, §3 (AMD).

§6404-B. Suspension based on conviction of fishing on closed days for sea urchin fishing

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section 6749 or any rule adopted under section 6749. The suspension must be for one year from the date of conviction. [PL 2003, c. 510, Pt. B, §4 (AMD).]

SECTION HISTORY

PL 1999, c. 244, §1 (NEW). PL 2001, c. 327, §2 (AMD). PL 2003, c. 510, §B4 (AMD).

§6404-C. Suspension based on conviction of sea urchin fishing in zone for which person is not licensed

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section 6749-P. The suspension must be for one year from the date of conviction. [PL 1999, c. 244, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 244, §1 (NEW).

§6404-D. Suspension based on conviction of sea urchin fishing in a closed area

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of violating section 6749-N. The suspension must be for one year from the date of conviction. [PL 2001, c. 327, §3 (NEW).]

SECTION HISTORY

PL 2001, c. 327, §3 (NEW).

§6404-E. Suspension based on 3 or more convictions of possessing small sea urchins

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of a 3rd or subsequent offense of possessing sea urchins smaller than the minimum size established pursuant to section 6749-A. The suspension must be for at least one year from the date of conviction and may be up to 3 years. Any conviction occurring more than 5 years before the last conviction may not be counted in determining the suspension. [PL 2003, c. 200, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 200, §1 (NEW).

§6404-F. Suspension based on 3 or more convictions of possessing oversize sea urchins

The commissioner shall suspend the sea urchin fishing license of any license holder convicted in court of a 3rd or subsequent offense of possessing sea urchins larger than the maximum size established pursuant to rule. The suspension must be for at least one year but not more than 3 years from the date of conviction. Any conviction occurring more than 5 years before the last conviction may not be counted in determining the suspension. [PL 2007, c. 615, §8 (NEW).]

SECTION HISTORY

PL 2007, c. 615, §8 (NEW).

§6404-G. Suspension based on 2 or more convictions of scallop fishing in a conservation area

The commissioner shall suspend the license authorizing the activity in which the person was engaged at the time of the violation for any person adjudicated of a 2nd or subsequent violation of section 6626. The suspension must be for one year from the date of adjudication. [PL 2009, c. 72, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 72, §1 (NEW).

§6404-H. Suspension or revocation based on conviction of an elver fishing license offense

The commissioner shall suspend or revoke a person's eligibility for the elver lottery under section 6505-A, subsection 2-C if the person is convicted of an offense in violation of section 6505-A, subsection 1. [PL 2017, c. 250, §1 (AMD).]

1. First offense. For a first offense, the commissioner shall suspend the person's eligibility for the elver lottery under section 6505-A, subsection 2-C for one year.

[PL 2017, c. 250, §1 (AMD).]

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the person's eligibility for the elver lottery under section 6505-A, subsection 2-C.

[PL 2017, c. 250, §1 (AMD).]

SECTION HISTORY

PL 2011, c. 549, §2 (NEW). PL 2013, c. 49, §4 (AMD). PL 2017, c. 250, §1 (AMD).

§6404-I. Suspension or revocation based on conviction of untagged elver gear

The commissioner shall suspend or revoke the elver fishing license of any license holder convicted of violating section 6505-B. [PL 2013, c. 49, §5 (AMD).]

1. First offense. For a first offense, the commissioner shall suspend the license holder's license for one year.

[PL 2011, c. 549, §2 (NEW).]

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

[PL 2011, c. 549, §2 (NEW).]

SECTION HISTORY

PL 2011, c. 549, §2 (NEW). PL 2013, c. 49, §5 (AMD).

§6404-J. Suspension or revocation based on conviction of fishing during closed season or a closed period

The commissioner shall suspend or revoke the elver fishing license of any license holder convicted of violating section 6575. [PL 2023, c. 405, Pt. A, §25 (AMD).]

1. First offense. For a first offense, the commissioner shall suspend the license holder's license for one year.

[PL 2011, c. 549, §2 (NEW).]

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

[PL 2011, c. 549, §2 (NEW).]

SECTION HISTORY

PL 2011, c. 549, §2 (NEW). PL 2013, c. 49, §6 (AMD). PL 2023, c. 405, Pt. A, §25 (AMD).

§6404-K. Suspension or revocation based on conviction of a violation of an elver dealer's license

The commissioner shall suspend or revoke the elver dealer's license of any elver dealer's license holder convicted of violating section 6864. [PL 2013, c. 49, §7 (AMD).]

1. First offense. For a first offense, the commissioner shall suspend the license holder's license for one year.

[PL 2011, c. 549, §2 (NEW).]

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

[PL 2011, c. 549, §2 (NEW).]

SECTION HISTORY

PL 2011, c. 549, §2 (NEW). PL 2013, c. 49, §7 (AMD).

§6404-L. Suspension or revocation based on interstate wildlife violator compact

The commissioner may suspend or revoke the license, privilege or right of any person to fish for, take, possess or transport any marine organism to the extent that the license, privilege or right has been suspended or revoked by another member state of an interstate wildlife violator compact entered into by the commissioner pursuant to section 6022, subsection 19. [PL 2013, c. 468, §12 (NEW).]

SECTION HISTORY

PL 2013, c. 468, §12 (NEW).

§6404-M. Suspension or revocation based on conviction of a violation of an elver individual fishing quota

The commissioner shall suspend or revoke the elver fishing license of any license holder convicted of violating section 6575-K. [PL 2013, c. 485, §4 (NEW).]

1. First offense. For the first offense, the commissioner shall suspend the license holder's license for one year.

[PL 2013, c. 485, §4 (NEW).]

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

[PL 2013, c. 485, §4 (NEW).]

SECTION HISTORY

PL 2013, c. 485, §4 (NEW).

§6404-N. Revocation based on conviction of failing to record the sale of elvers with an elver transaction card

The commissioner shall permanently revoke the elver fishing license, elver dealer's license or elver exporter's license of any license holder convicted of violating section 6505-A, subsection 1-D. [PL 2019, c. 163, §4 (NEW).]

SECTION HISTORY

PL 2019, c. 163, §4 (NEW).

§6405. Trap removal

A person whose lobster and crab fishing license has been suspended shall, within 5 days of suspension, remove from the water all of the person's lobster traps or cars, except cars numbered with another valid license number. The commissioner may extend the time period if adverse weather conditions or other circumstances beyond the control of the license holder prevent removal within that time period. [RR 2021, c. 2, Pt. B, §52 (COR).]

During the removal period, the license holder may not sell, lease or otherwise transfer ownership of the license holder's lobster traps or cars or give written permission to another person to raise, lift or transfer those traps or cars. The commissioner may allow another licensed person, subject to any conditions or limitations, to assist the license holder in removing the license holder's traps or cars, if that assistance is required because of personal hardship or a large number of traps. [RR 2021, c. 2, Pt. B, §52 (COR).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1977, c. 713, §3 (AMD). PL 1979, c. 283, §1 (AMD). RR 2021, c. 2, Pt. B, §52 (COR).

§6406. Engaging in activities while under suspension

1. Prohibited acts. It is unlawful for any person whose license or right to obtain a license is under suspension to:

- A. Engage in any licensed activity; [PL 1989, c. 455, §1 (RPR).]
- B. Give another person permission to raise, lift, transfer or possess lobster traps or cars marked with the suspended person's lobster and crab fishing license number or lobster traps with buoys that carry the color design on file with the suspended license; [PL 1991, c. 302, §1 (AMD).]
- C. Assist a holder of a Class II lobster and crab fishing license as a crew member; or [PL 1991, c. 302, §1 (AMD).]
- D. [PL 1989, c. 455, §1 (RP).]
- E. For any violation occurring on or after the effective date of this paragraph, assist any license holder as a crew member in any activity authorized by the suspended license. [PL 1991, c. 302, §1 (NEW); PL 1991, c. 302, §2 (AFF).]

[PL 2009, c. 151, §6 (AMD).]

2. Penalty. Violation of this section is a Class D crime, except that the court shall impose a fine of not less than \$500 nor more than \$2,000.

[PL 2009, c. 394, §5 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 283, §2 (AMD). PL 1989, c. 455, §1 (RPR). PL 1991, c. 302, §1 (AMD). PL 1991, c. 302, §2 (AFF). PL 2009, c. 151, §6 (AMD). PL 2009, c. 394, §5 (AMD).

§6407. Conviction or adjudication; juvenile offense; failure to appear

Under this chapter: [PL 1977, c. 661, §5 (NEW).]

1. Conviction or adjudication. A conviction of a crime is considered a conviction and an adjudication of a civil violation is considered an adjudication during the pendency of appeal; [PL 2013, c. 492, §4 (AMD).]

2. Juvenile offense. A conviction of a juvenile offense is considered a conviction; and [PL 2013, c. 492, §4 (AMD).]

3. Failure to appear. Failure to appear in court when properly summoned is considered a conviction.

[PL 2013, c. 492, §4 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 2013, c. 492, §4 (AMD).

§6408. Suspension of lobster and crab fishing license

A person whose Class I, Class II or Class III lobster and crab fishing license has been suspended for more than one year must appear in person before the commissioner prior to being issued a Class I, Class II or Class III lobster and crab fishing license pursuant to section 6421, subsection 5, paragraph D. [PL 1999, c. 643, §2 (NEW).]

REVISOR'S NOTE: §6408. Suspension of license for failure to appear, answer or pay (REALLOCATED TO TITLE 12, SECTION 6409)

SECTION HISTORY

RR 1999, c. 2, §13 (RAL). PL 1999, c. 643, §2 (NEW). PL 1999, c. 743, §1 (NEW).

§6409. Suspension of license for failure to appear, answer or pay

(REALLOCATED FROM TITLE 12, SECTION 6408)

If a license is suspended pursuant to Title 14, section 3142, the suspension remains in effect and that person is ineligible to obtain or hold a license until the person pays the fine. Except for a limited entry fishery, as defined in section 6310-A, subsection 2, upon payment of the fine and on condition of payment of a \$25 administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain or hold a license reinstated. For a limited entry fishery, as defined in section 6310-A, subsection 2, in order for the suspension to be rescinded and the person's eligibility to obtain or hold a license to be reinstated, the person must purchase the license and pay the \$25 administrative fee to the department by no later than the end of the calendar year following the year in which the fine is paid. For the purposes of this section, "fine" has the same meaning as in Title 14, section 3141, subsection 1. [PL 2019, c. 642, §2 (AMD).]

SECTION HISTORY

RR 1999, c. 2, §13 (RAL). PL 2009, c. 561, §14 (AMD). PL 2019, c. 642, §2 (AMD).

§6410. Suspension of license for failure to comply with court order of support

If a person's eligibility to obtain or hold a license or registration is suspended pursuant to Title 19-A, section 2201, the suspension remains in effect until the person is in compliance with a court order of support. Except for a limited entry fishery, as defined in section 6310-A, subsection 2, upon payment of a \$25 administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain or hold a license reinstated. For a limited entry fishery, as defined in section 6310-A, subsection 2, in order for the suspension to be rescinded and the person's eligibility to obtain or hold a license to be reinstated, the person must purchase the license and pay the \$25 administrative fee to the department by no later than the end of the calendar year following the year in which the person is in compliance with the court order of support. [PL 2019, c. 642, §3 (AMD).]

SECTION HISTORY

PL 2003, c. 520, §3 (NEW). PL 2009, c. 561, §15 (AMD). PL 2019, c. 642, §3 (AMD).

§6411. Refusal to renew or reissue license for failure to file or failure to pay state tax obligations

If a person's eligibility to obtain a license is suspended pursuant to Title 36, section 175, the suspension is in effect until the State Tax Assessor issues a certificate of good standing. Except for a limited entry fishery, as defined in section 6310-A, subsection 2, upon payment of a \$25 administrative fee to the department, the suspension is rescinded and the person's eligibility to obtain a license reinstated. For a limited entry fishery, as defined in section 6310-A, subsection 2, in order for the suspension to be rescinded and the person's eligibility to obtain a license to be reinstated, the person must purchase the license and pay the \$25 administrative fee to the department by no later than the end of the calendar year following the year in which the person is issued a certificate of good standing. [PL 2019, c. 642, §4 (AMD).]

SECTION HISTORY

PL 2009, c. 561, §16 (NEW). PL 2019, c. 642, §4 (AMD).

§6412. Suspension of license or certificate for failure to comply with reporting requirements

1. Authority to suspend. The commissioner, in accordance with this section, may suspend a license or certificate issued under this Part if the holder of the license or certificate fails to comply with reporting requirements established by section 6864, subsection 8 or by rule pursuant to section 6173. A license or certificate suspended under this section remains suspended until the suspension is rescinded by the commissioner. The commissioner shall rescind a suspension when:

A. The commissioner determines and provides notice to the holder of the suspended license or certificate that the holder has come into compliance with the reporting requirements established by section 6864, subsection 8 or by rule pursuant to section 6173; and [PL 2013, c. 468, §13 (AMD).]

B. The holder pays to the department a \$25 administrative fee. [PL 2013, c. 282, §2 (NEW).]

When a suspension is rescinded, the license or certificate is reinstated. Until the suspension is rescinded, the holder of the suspended license or certificate is not eligible to hold, apply for or obtain that license or certificate.

[PL 2013, c. 468, §13 (AMD).]

1-A. Process for suspension for failing to comply with daily reporting by elver dealers. If the commissioner determines that a person licensed under section 6864 has failed to comply with the daily reporting requirement under section 6864, subsection 8, the commissioner shall notify the person at the telephone number provided on the person's license application or at another telephone number provided in writing by the dealer for this purpose. If the license holder has not complied with the reporting requirements within 24 hours of the requirement to submit the report, the commissioner shall serve a notice of suspension in hand to the license holder or mail the notice to the license holder. If the notice is mailed to the license holder, the notice is deemed received 3 days after the mailing. The notice must:

A. Describe the information that the license holder is required to provide that the department has not received; and [PL 2013, c. 468, §13 (NEW).]

B. State that, unless all the information described in paragraph A is provided to the department or the license holder requests a hearing, the license will be suspended 12 hours after the license holder's receipt of the notice. [PL 2013, c. 468, §13 (NEW).]

Notwithstanding subsection 4, if the license holder has not complied with the reporting requirements or requested a hearing within 12 hours after receipt of the notice, the commissioner shall suspend the license.

[PL 2013, c. 468, §13 (NEW).]

2. Process for suspension for failing to comply with weekly reporting. If the commissioner determines that a person who holds a license or certificate under this Part has failed to comply with a weekly reporting requirement established by rule pursuant to section 6173, the commissioner shall notify the person at the telephone number provided on the application for the license or certificate and by e-mail if an e-mail address is provided on the application. If the license or certificate holder has not complied with the reporting requirements within 2 days after the commissioner has provided the notice, the commissioner shall mail a notice of suspension to the license or certificate holder. The notice is deemed received 3 days after the mailing. The notice must:

A. Describe the information that the license or certificate holder is required to provide pursuant to this Part that the department has not received; and [PL 2013, c. 282, §2 (NEW).]

B. State that, unless all the information described in paragraph A is provided to the department or the license or certificate holder requests a hearing, the license or certificate will be suspended in 3 business days after the license or certificate holder's receipt of the notice. [PL 2013, c. 282, §2 (NEW).]

If the license or certificate holder has not complied with the reporting requirements or requested a hearing within 3 business days after receipt of the notice, the commissioner shall suspend the license or certificate.

[PL 2013, c. 468, §13 (AMD).]

3. Process for suspension for failing to comply with monthly reporting. If the commissioner determines that a person who holds a license or certificate under this Part has failed to comply with a monthly reporting requirement established by rule pursuant to section 6173, the commissioner shall notify the person by mailing the notice to the person at the last known address provided in the department's marine resources licensing and enforcement database, or by serving the notice in hand. If the license or certificate holder has not complied with the reporting requirements within 45 days after

the commissioner has provided the notice, the commissioner shall mail a notice of suspension to the license or certificate holder. The notice is deemed received 3 days after the mailing. The notice must:

- A. Describe the information that the license or certificate holder is required to provide pursuant to this Part that the department has not received; and [PL 2013, c. 282, §2 (NEW).]
- B. State that, unless all the information described in paragraph A is provided to the department or the license or certificate holder requests a hearing, the license or certificate will be suspended in 3 business days after the license or certificate holder's receipt of the notice. [PL 2013, c. 282, §2 (NEW).]

If the license or certificate holder has not complied with the reporting requirements or requested a hearing within 3 business days after receipt of the notice, the commissioner shall suspend the license or certificate.

[PL 2015, c. 172, §7 (AMD).]

4. Hearing. A license or certificate holder receiving a written notice of suspension pursuant to this section may request a hearing on the suspension by contacting the department within 3 business days of receipt of the notice. If a hearing is requested, the suspension is stayed until a decision is issued following the hearing. The hearing must be held within 3 business days of the request, unless another time is agreed to by both the department and the license or certificate holder. The hearing must be conducted in the Augusta area. The hearing must be held in accordance with:

- A. Title 5, section 9057, regarding evidence, except the issues are limited to whether the license or certificate holder has complied with reporting requirements established by rule pursuant to section 6173; [PL 2013, c. 282, §2 (NEW).]
- B. Title 5, section 9058, regarding notice; [PL 2013, c. 282, §2 (NEW).]
- C. Title 5, section 9059, regarding records; [PL 2013, c. 282, §2 (NEW).]
- D. Title 5, section 9061, regarding decisions, except the deadline for making a decision is one business day after completion of the hearing; and [PL 2013, c. 282, §2 (NEW).]
- E. Title 5, section 9062, subsections 3 and 4, regarding a presiding officer's duties and reporting requirements, except that notwithstanding section 9062, subsection 1, the presiding officer must be the commissioner or the commissioner's designee. [PL 2013, c. 282, §2 (NEW).]

[PL 2013, c. 282, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 282, §2 (NEW). PL 2013, c. 468, §13 (AMD). PL 2015, c. 172, §7 (AMD).

§6413. Reduction in trap limit after certain suspensions

The commissioner may reduce the number of trap tags a person whose lobster and crab fishing license has been suspended pursuant to section 6374, subsection 3-A may purchase in the year following the suspension, except that if the person holds a Class I, Class II or Class III lobster and crab fishing license the person must be allowed to purchase at least 300 trap tags. For each following year, the license holder may purchase up to an increase of 100 trap tags each year as long as the total number purchased does not exceed the number of traps allowed under the lowest trap limit for the license or established by rule for the zones identified on that person's license pursuant to section 6446, subsection 1-A. [PL 2017, c. 197, §8 (NEW).]

SECTION HISTORY

PL 2017, c. 197, §8 (NEW).

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