

Maine Revised Statute Title 12, Chapter 609: ENFORCEMENT

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12 §6201. PROSECUTION BY DISTRICT ATTORNEY

Each district attorney shall prosecute all violations of marine resources' laws occurring within his county when requested by the commissioner, a marine patrol officer or other person authorized to enforce any provision of marine resources' laws. [1979, c. 541, Pt. B, §73 (AMD).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 541, §B73 (AMD).

12 §6202. JURISDICTION

The District Court shall have concurrent original jurisdiction with the Superior Court in all prosecutions under the marine resources' laws. [1977, c. 661, §5 (NEW).]

SECTION HISTORY

1977, c. 661, §5 (NEW).

12 §6203. COURT PROCEDURE

The provisions of Titles 14 and 15 relating to court procedure shall apply in all prosecutions under the marine resources' laws. [1977, c. 661, §5 (NEW).]

SECTION HISTORY

1977, c. 661, §5 (NEW).

12 §6204. GENERAL PENALTY

A violation of any provision of marine resources' laws is a Class D crime, unless another penalty has been expressly provided. Except as otherwise specifically provided, these crimes are strict liability crimes as defined in Title 17-A, section 34, subsection 4-A. [2003, c. 452, Pt. F, §7 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 2003, c. 248, §6 (AMD). 2003, c. 452, §F7 (AMD). 2003, c. 452, §X2 (AFF).

12 §6205. CERTIFICATE AS EVIDENCE

A certificate of the commissioner, deputy commissioner or Chief of the Bureau of Marine Patrol stating what the records of the department show shall be admissible as evidence in all courts as proof of the department records. A certificate stating that the records do not show that a person held a license shall be prima facie evidence that the person did not hold the license on the date specified in the certificate. The certified copy shall be admissible in evidence on the testimony of a officer that he received the certificate after requesting it by telephone or otherwise from the department. No further foundation shall be necessary for the admission of the certificate. [1979, c. 541, Pt. B, §73 (AMD).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 541, §B73 (AMD).

12 §6206. FEES AND FORMS FOR LIBEL PROCEEDINGS

This section applies to the libel proceedings authorized in section 6207. [1977, c. 661, §5 (NEW).]

- 1. Fees.** The fees to be taxed on the libel proceedings shall be as follows:

A. For the libel and order of notice, \$5; [.]

[PL 1977, c. 661, § 5 (NEW).]

B. For the entry of the libel, \$2; [.]

[PL 1977, c. 661, § 5 (NEW).]

C. For the hearing, \$5; [.]

[PL 1977, c. 661, § 5 (NEW).]

D. For posting the notices, and the officer's return of service, \$10; [.]

[PL 1977, c. 661, § 5 (NEW).]

E. For the delivery or restoration of the items, \$10; and [.]

[PL 1977, c. 661, § 5 (NEW).]

F. For all the officer's travel in connection with the entire proceeding, as provided under Title 5, section 8. [.]

[PL 1977, c. 661, § 5 (NEW).]

[[PL 1977, c. 661, § 5 (NEW).].]

[1977, c. 661, §5 (NEW) .]

2. Forms. These forms, with such changes as adapt them to the particular court, locality and circumstances of the case, shall be sufficient in law:

A. Form of libel:

STATE OF MAINE

County of SS
Clerk, Judge
Justice of the Peace
Court.

To the Honorable
of

Your libelant, of, Maine, a warden,
states that on the day of, 19 . . ., at
in this county, he seized certain fish, shellfish, lobsters, or other marine species, or parts thereof, or
certain equipment, described as follows:

.....
.....
.....

That the items seized and described were either taken, bought, sold, shipped, transported,
possessed or used in violation of a provision of the Maine Revised Statutes, Title 12, chapters 601 to
627, or in violation of a regulation authorized by those chapters. The specific violation of statute or
regulation is

.....
.....

Wherefore he prays for a decree of forfeiture of these items in accordance with the provisions of the
Maine Revised Statutes, Title 12, section 6207.

Signed at,

in this county, this day of, 19..

(Signed)....
Warden

[.]

[PL 1987, c. 736, § 7 (AMD).]

B. Form for order of notice:

STATE OF MAINE

(L.S.)

County of . . . SS

To all persons interested in the libel of made part of this order of notice:

You are hereby notified to appear before me at the time and place appointed for the hearing in this order of notice, and show cause, why the items described in the libel should not be declared forfeited to the State.

It is ordered that the hearing be held on, 19., at (a.m., p.m.) at in of (county).

It is further ordered that a true copy of this libel and this order of notice, attested by a warden, be posted in two conspicuous places in the of(county), municipality where said items were seized, at least 10 days before the day of hearing.

.....
Ordered this day of, 19.. by me, Judge of the Court.

.....
Judge

[.]

[PL 1977, c. 661, § 5 (NEW).]

C. Form for officer's return of service:

STATE OF MAINE

..... SS

....., 19..

I have this day made service of the within libel and order of notice, by posting a true copy of each, attested by me, in two conspicuous places in, as follows: one at, and one at, in accordance with said order of notice.

The fees which may be taxed for my services, if any, are as follows:

Posting notices and return of service, \$10.00

Travel

.....
Total \$.....

.... Date

(Signed)
Warden

[.]

[PL 1977, c. 661, § 5 (NEW).]

D. Form for order of forfeiture:

STATE OF MAINE

(LS)

..... SS

To, a warden or any warden:

Whereas it appears that the libel and notice were properly made, which libel and order of notice are made a part of this order of forfeiture,

And whereas it appears that service was properly made,

And whereas hearing was held at the time and place, fixed in the order of notice,

And whereas one of did appear and claim the by filing a written claim and after a full hearing it appeared to me that the claimant was not therefore entitled to any item claimed, judgement is rendered against the claimant and for the State. The state's costs are taxed as dollars and cents.

(Or in substitute of the above paragraph the following paragraph if it is applicable:)

(And whereas no person appeared at said hearing or filed a written claim;)

It is therefor ordered by me, that all items described in the libel be forfeited to the State.

You are hereby ordered to turn the forfeited items over to the Commissioner of Marine Resources.

Dated, this day of A.D. 19..

(Signed).....
Judge

[.]

[PL 1977, c. 661, § 5 (NEW).]

[[PL 1987, c. 736, § 7 (AMD).].]

[1987, c. 736, §7 (AMD) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1987, c. 736, §7 (AMD). 1987, c. 736, §7 (AMD).

12 §6207. SEIZURE AND DISPOSITION OF EQUIPMENT AND ORGANISMS

Any marine organism, that is taken, bought, sold, shipped, transported or found in the possession of any person in violation of any provision of marine resources' laws, is contraband and is subject to forfeiture in accordance with this section and section 6206. All equipment and vehicles used or possessed in violation of any provision of marine resources' laws are contraband and are subject to forfeiture. [1989, c. 742, §3 (AMD) .]

1. May be seized without warrant; marine patrol officer's duty to libel; contents of libel. Whenever a marine patrol officer seizes any organism or equipment and does not return them to the owner, he shall within a reasonable time file a libel with a judge. He shall insert the following information in the libel:

- A. The description of the items seized by him; [1977, c. 661, §5 (NEW) .]
- B. A statement of the date and place of seizure; [1977, c. 661, §5 (NEW) .]
- C. A statement of the violation that causes the seizure; and [1977, c. 661, §5 (NEW) .]
- D. A prayer for a decree of forfeiture of those items. [1977, c. 661, §5 (NEW) .]

[1979, c. 541, Pt. B, §73 (AMD) .]

2. Items which need not be libeled. The following items need not be libeled:

- A. If the aggregate value of all items seized is less than \$75, unless there is reasonable doubt as to their ownership; and [1977, c. 661, §5 (NEW) .]

B. All marine organisms of illegal size, shellfish taken from polluted areas, shellfish or shellfish products embargoed, condemned or ordered destroyed by the commissioner, female egg-bearing lobsters, V-notched female lobsters, lobsters which have been mutilated so that their size cannot be determined, female lobsters which have been mutilated so as to obliterate a V-notch, female lobsters which have had the eggs removed by other means than natural hatching, and any other marine organism, the possession of which is unlawful throughout the State. [1981, c. 433, §4 (AMD).]

[1981, c. 433, §4 (AMD) .]

3. Order of notice; contents. The judge to whom the libel is directed shall fix a time for the hearing of the libel. He shall issue an order of notice to all persons interested, in which order of notice he shall insert the following:

A. A citation to all persons interested to appear at the time and place appointed for the hearing and show cause, if any, why the items described in the libel should not be declared forfeited to the State; [1977, c. 661, §5 (NEW).]

B. The time and the place fixed for the hearing; and [1977, c. 661, §5 (NEW).]

C. An order that a true copy of the libel and the order of the notice, attested by the marine patrol officer, be posted in 2 conspicuous places in the municipality, or place where the items were seized, at least 10 days before the day set for the hearing. [1979, c. 541, Pt. B, §73 (AMD).]

[1979, c. 541, Pt. B, §73 (AMD) .]

4. Sale or other disposition prior to hearing. If, after receipt of the libel and before the hearing, the judge finds that the items seized will be unsuitable for food or other use, at the day of hearing, he shall order the officer who made the seizure to dispose of them.

A. The officer may then dispose of the items at public or private sale or otherwise. [1977, c. 661, §5 (NEW).]

B. The officer shall hold any proceeds of a sale subject to the decision of the court as to their final disposition. [1977, c. 661, §5 (NEW).]

[1977, c. 661, §5 (NEW) .]

5. Items or proceeds forfeited if no court appearance; proceeds disposed of in same manner as fines. If no claimant appears at the time of the hearing on the libel, on return of service of the officer in compliance with the order of notice, the judge shall declare the items forfeited to the State.

A. If the items have been sold in accordance with subsection 4, the officer shall turn the proceeds over to the judge who shall dispose of them in the same manner that he disposes of fines collected under marine resources' laws. [1977, c. 661, §5 (NEW).]

[1977, c. 661, §5 (NEW) .]

6. Duty of claimant to file written claim on or before hearing day; contents. Any person who claims title or the right to possession of any item listed in the libel shall file a written claim with the judge on or before the day set for hearing. The claim shall contain the following:

A. A statement of his claimed title or right and its foundation; [1977, c. 661, §5 (NEW).]

B. A statement of the specific items claimed; [1977, c. 661, §5 (NEW).]

C. A statement of the date and place of the seizure, and the name of the officer by whom they were seized; [1977, c. 661, §5 (NEW).]

D. A statement that the items claimed were not held in possession or use, with his knowledge or consent, in violation of any provision of marine resources' laws; [1977, c. 661, §5 (NEW).]

E. He shall state his business and his place of residence; and [1977, c. 661, §5 (NEW).]

F. He shall sign and make oath to the claim before the judge. [1977, c. 661, §5 (NEW).]

[1977, c. 661, §5 (NEW) .]

7. Claimant admitted as party; hearing. If any person makes claim as provided in subsection 6, the judge shall admit him as a party to the process, shall proceed to determine the truth of the allegations in the claim and libel and shall hear any relevant evidence offered by the libelant or the claimant.

[1977, c. 661, §5 (NEW) .]

8. Court order if claimant found entitled to any item claimed. If the judge upon hearing is satisfied that any item listed in the claimant's claim was not, with the claimant's knowledge or consent, used or possessed in violation of any provision of marine resources' laws, and that the claimant has title or is entitled to possession of that item, he shall give the claimant an order in writing. The judge shall direct the order to the libelant commanding him to deliver the item to the claimant, or, if the item has been sold, to deliver the proceeds of the sale to the claimant, within 48 hours after the demand.

[1977, c. 661, §5 (NEW) .]

9. Forfeiture; executions for cost; appeal; recognition. If the judge finds that the claimant is not entitled to any item claimed, the judge shall render judgment against the claimant for the State for costs to be taxed as in civil cases before the judge. The judge shall issue an execution for the costs as in civil cases. The judge shall declare the articles forfeited to the State. If the items have been sold in accordance with subsection 4, the officer shall turn the proceeds of the sale over to the judge who shall dispose of them in the same manner he disposes of fines collected under marine resources' laws.

A. The claimant may appeal to the Superior Court next to be held within the county where the judge's court is located, and, if he appeals, the judge may order the claimant to recognize with sureties as on appeals in civil cases. [1977, c. 661, §5 (NEW).]

B. The judge may order that the items or proceeds of sale remain in the custody of the officer pending the appeal. [1977, c. 661, §5 (NEW).]

[1977, c. 661, §5 (NEW) .]

10. Disposition of forfeited items. The officer shall turn over any articles declared forfeited to the commissioner who shall dispose of them.

[1977, c. 661, §5 (NEW) .]

11. Report to commissioner. The officer making any seizure under this section shall, within 10 days thereafter, report to the commissioner all the particulars of the seizure, the sale or other disposition, the court action taken and all expenses involved.

[1979, c. 541, Pt. B, §73 (AMD) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 541, §B73 (AMD). 1981, c. 433, §4 (AMD). 1989, c. 742, §3 (AMD).

12 §6208. MARINE RESOURCES' CITATION FORM

1. Form. The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the Bureau of Marine Patrol, except that the commissioner may permit the use of any citation forms approved by the Chief Judge of the District Court before May 1, 1991 that are in current stock as of May 1, 1991 until those stocks are depleted.

[1991, c. 459, §1 (AMD) .]

2. Responsibility for issuance and disposition. Responsibility for issuance and disposition is as follows.

A. The commissioner is responsible for all marine resources' citation forms approved by the Chief Judge of the District Court prior to May 1, 1991. The Department of Public Safety is responsible for all Uniform Summons and Complaint forms issued by the Bureau of Marine Patrol. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to individual law enforcement officers and the proper disposition of those books. [1991, c. 459, §1 (AMD) .]

B. [1991, c. 459, §1 (RP) .]

[1991, c. 459, §1 (AMD) .]

3. Illegal disposition; prohibited act. It is unlawful and official misconduct for any marine patrol officer or other public employee to dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in any applicable official policy or procedure of the Bureau of Marine Patrol.

[1991, c. 459, §1 (AMD) .]

4. When a lawful complaint. If the citation provided for in this section or a Uniform Summons and Complaint is duly sworn to as required by law and otherwise legally sufficient in respect to the form of a complaint and charging an offense, it may be filed in a court having jurisdiction and constitutes a lawful complaint for the purpose of the commencement of any criminal prosecution or civil violation proceeding.

[1991, c. 459, §1 (AMD) .]

5. When a lawful summons. A citation as provided for in this section or a Uniform Summons and Complaint, when served upon a person by a law enforcement officer, acts as a summons to appear in court or to otherwise respond in accordance with law on or before the date specified in the summons. Any person who fails to appear in court as directed by the summons or to otherwise respond in accordance with law on or before the date specified in the summons commits a Class E crime. Upon that person's failure to appear or to respond in accordance with law, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or to respond resulted from just cause.

[1991, c. 459, §1 (AMD) .]

6. Refusal to sign; prohibited act. Any person who refuses to sign a citation or Uniform Summons and Complaint after having been ordered to do so by a law enforcement officer commits a Class E crime.

[1991, c. 459, §1 (AMD) .]

SECTION HISTORY

1985, c. 481, §A37 (NEW). 1987, c. 513, §3 (AMD). 1991, c. 459, §1 (AMD).

12 §6209. COMMISSIONER TO KEEP RECORDS

The commissioner shall collect and maintain criminal history record information pertinent to violations of chapters 601 to 627. He may collect and maintain other records and information pertinent to other functions of the department, including the enforcement of civil violations. [1987, c. 281, §1 (NEW) .]

SECTION HISTORY

1987, c. 281, §1 (NEW) .

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