

**Maine Revised Statute Title 12, Chapter 615:  
GENERAL LICENSE PROVISIONS**

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## 12 §6301. GENERAL PROVISIONS

**1. Resident license.** Any individual who has been domiciled in Maine for the 6 months preceding the date of application is eligible for a resident license. A corporation is eligible for a resident license if it has been created and exists under the laws of Maine and it has existed in Maine during the 6 months preceding the date of application. A firm or partnership is eligible if all of its officers or partners have been domiciled in Maine for the 6 months preceding the date of application.

For the purposes of this chapter, a resident is a person who:

- A. If registered to vote, is registered in Maine; [1991, c. 692, (NEW).]
- B. If licensed to drive a motor vehicle, has made application for a Maine motor vehicle operator's license; [1991, c. 692, (NEW).]
- C. If the owner of one or more motor vehicles located within the State, has registered at least one of the motor vehicles in Maine; and [1991, c. 692, (NEW).]
- D. If required to file a Maine income tax return on the previous April 15th, filed a Maine income tax return. [1991, c. 692, (NEW).]

[ 1991, c. 692, (AMD) .]

**2. Expiration.** A license or certificate issued by the commissioner expires on December 31st of the year in which it is issued, except that:

- A. A depuration certificate issued under section 6856 expires on April 30th of each year; [1993, c. 80, §1 (NEW).]
- B. A shellfish license issued under section 6601 expires on April 30th of each year; [1993, c. 497, §1 (AMD).]
- C. A marine worm digger's license issued under section 6751 expires on April 30th of each year; [1995, c. 492, §1 (AMD).]
- D. A shellfish sanitation certificate issued under section 6856 expires on May 31st of each year; [2005, c. 434, §3 (AMD).]
- E. A marine worm dealer's license issued under section 6853 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- F. A marine worm dealer's supplemental license issued under section 6853 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- G. A retail seafood license issued under section 6852 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- H. A wholesale seafood license with a lobster permit issued under section 6851 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- I. A wholesale seafood license issued under section 6851 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- J. A wholesale seafood license with a sea urchin buyer's permit issued under section 6851 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- K. A wholesale seafood license with a sea urchin processor's permit issued under section 6851 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- L. A wholesale seafood supplemental license issued under section 6851 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]
- M. A shellfish transportation license issued under section 6855 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]

N. A shellfish transportation supplemental license issued under section 6855 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]

O. A lobster meat permit issued under section 6857 expires on March 31st of each year; [1995, c. 492, §3 (NEW); 1995, c. 492, §5 (AFF).]

P. A lobster transportation license issued under section 6854 expires on March 31st of each year; [1999, c. 491, §1 (AMD); 1999, c. 491, §9 (AFF).]

Q. A lobster transportation supplemental license issued under section 6854 expires on March 31st of each year; and [1999, c. 491, §1 (AMD); 1999, c. 491, §9 (AFF).]

R. A wholesale seafood license with a shrimp permit issued under section 6851 expires on March 31st of each year. [1999, c. 491, §2 (NEW); 1999, c. 491, §9 (AFF).]

[ 2005, c. 434, §3 (AMD) .]

**3. Nontransferable.** A license or certificate shall not be transferable.

[ 1977, c. 661, §5 (NEW) .]

**4. Supplemental license.** A supplemental license may only be issued for an establishment or vehicle which is owned, leased or rented by the license holder.

[ 1977, c. 661, §5 (NEW) .]

**5. Information.** When application information concerning any person, establishment or vehicle named in a license or certificate changes, the holder shall immediately notify the commissioner in writing within 3 business days or the license or certificate shall become void.

[ 1977, c. 661, §5 (NEW) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1985, c. 52, §1 (AMD). 1991, c. 692, (AMD). 1993, c. 80, §1 (AMD). 1993, c. 497, §§1,2 (AMD). 1995, c. 492, §§1-3 (AMD). 1995, c. 492, §5 (AFF). 1999, c. 491, §§1,2 (AMD). 1999, c. 491, §9 (AFF). 2005, c. 434, §3 (AMD).

## 12 §6302. GENERAL EXCEPTIONS

Notwithstanding any licensing provision, a license or certificate is not required for a person to: [1997, c. 544, §1 (AMD).]

**1. Personal use.** Possess or transport any marine organism that has been lawfully acquired and is for personal use. A receipt or bill of sale is required for lawful acquisition;

[ 1997, c. 544, §1 (AMD) .]

**2. Common carrier.** Carry any marine organism by a common carrier;

[ 1997, c. 544, §1 (AMD) .]

**3. Hermetically sealed containers.** Buy, sell, ship or transport within or beyond the state limits or possess any marine organism that is in a hermetically sealed container; or

[ 1997, c. 544, §1 (AMD) .]

**4. Retail sale of certain seafood products.** Sell at retail:

A. Shucked shellfish, if the shucked shellfish is purchased from a wholesale seafood license holder certified under section 6856; or [1997, c. 544, §1 (NEW).]

B. Lobster parts or meat, if they are purchased from a wholesale seafood license holder who possesses a lobster meat permit under section 6857 or if they have been lawfully imported. [1997, c. 544, §1 (NEW).]

[ 1997, c. 544, §1 (NEW) .]

## SECTION HISTORY

1977, c. 661, §5 (NEW). 1997, c. 544, §1 (AMD).

**12 §6302-A. TAKING OF MARINE ORGANISMS BY PASSAMAQUODDY TRIBAL MEMBERS**

**1. Tribal exemption; commercial harvesting licenses.** A member of the Passamaquoddy Tribe who is a resident of the State is not required to hold a state license or permit issued under section 6421, 6501, 6505-A, 6505-C, 6535, 6601, 6701, 6702, 6703, 6731, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6803 or 6804 to conduct activities authorized under the state license or permit if that member holds a valid license issued by the tribe to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe issued a tribal license pursuant to this subsection to conduct activities is subject to all laws and rules applicable to a person who holds a state license or permit to conduct those activities and to all the provisions of chapter 625, except that the member of the tribe:

A. May utilize lobster traps tagged with trap tags issued by the tribe in a manner consistent with trap tags issued pursuant to section 6431-B. A member of the tribe is not required to pay trap tag fees under section 6431-B if the tribe issues that member trap tags; [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe in a manner consistent with tags issued pursuant to 6505-B. A member of the tribe is not required to pay elver fishing gear fees under section 6505-B if the tribe issues that member elver fishing gear tags; and [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

C. Is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671. [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

[ 2009, c. 396, §1 (AMD) .]

**2. Tribal exemption; sustenance or ceremonial tribal use.** Notwithstanding any other provision of law, a member of the Passamaquoddy Tribe who is a resident of the State may at any time take, possess, transport and distribute:

A. Any marine organism, except lobster, for sustenance use if the tribal member holds a valid sustenance fishing license issued by the tribe. A sustenance fishing license holder who fishes for sea urchins may not harvest sea urchins out of season; [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

B. Lobsters for sustenance use, if the tribal member holds a valid sustenance lobster license issued by the tribe. The sustenance lobster license holder's traps must be tagged with sustenance use trap tags issued by the tribe in a manner consistent with trap tags issued pursuant to section 6431-B; however, a sustenance lobster license holder may not harvest lobsters for sustenance use with more than 25 traps; and [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

C. Any marine organism for noncommercial use in a tribal ceremony within the State, if the member holds a valid ceremonial tribal permit issued to the tribal member by the Joint Tribal Council of the Passamaquoddy Tribe or the governor and council at either Passamaquoddy reservation. [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

For purposes of this subsection, "sustenance use" means all noncommercial consumption or noncommercial use by any person within the Passamaquoddy reservation at Pleasant Point or Indian Township or at any location within the State by a tribal member, by a tribal member's immediate family or within a tribal member's household. The term "sustenance use" does not include the sale of marine organisms. A member of the Passamaquoddy Tribe who takes a marine organism under a license or permit issued pursuant to this subsection must comply with all laws and rules applicable to a person who holds a state license or permit that authorizes the taking of that organism, except that a state law or rule that sets a season for the harvesting of a marine organism does not apply to a member of the Passamaquoddy Tribe who takes a marine organism for sustenance use or for noncommercial use in a tribal ceremony. A member of the Passamaquoddy Tribe issued a license or permit under this subsection is exempt from paying elver gear fees under section 6505-B or trap tag fees under section 6431-B and is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671. A member of the Passamaquoddy Tribe who fishes for or takes lobster under a license or permit issued pursuant to this subsection must comply with the closed periods under section 6440.

[ 1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF) .]

**3. Lobster and sea urchin licenses; limitations.** The Passamaquoddy Tribe may not issue pursuant to subsection 1:

A. More than 24 commercial lobster and crab fishing licenses in calendar year 1998, including all licenses equivalent to Class I, Class II or Class III licenses and student licenses, but not including apprentice licenses. Any lobster and crab fishing license issued by the tribe after calendar year 1998 is subject to the eligibility requirements of section 6421, subsection 5; and [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

B. More than 24 commercial licenses for the taking of sea urchins in any calendar year. Sea urchin licenses must be issued by zone in accordance with section 6749-P. [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

[ 1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF) .]

**4. Sea urchin and scallop handfishing and tender licenses; limitations.** The Passamaquoddy Tribe may not issue a license or permit pursuant to subsection 1 or 2:

A. For the harvesting of sea urchins or scallops by hand unless the license or permit applicant meets the diver competency requirements of section 6531; and [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

B. For the tending of a person who fishes for or takes scallops or sea urchins by diving unless the applicant meets the safety training requirements of section 6533. [1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF).]

[ 1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF) .]

**5. Notification.** Subsections 1 and 2 do not apply to a member of the Passamaquoddy Tribe unless a copy of that member's tribal license or permit is filed with the commissioner by the tribal licensing agency or a tribal official in accordance with section 6027.

[ 1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF) .]

**6. License suspension.** If a member of the Passamaquoddy Tribe issued a license or permit under this section is convicted or adjudicated of a violation for which a license suspension is mandatory under chapter 617, the commissioner shall suspend that member's license or permit for the specified period. If a member of the Passamaquoddy Tribe issued a license or permit under this section is convicted or adjudicated of a violation for which the commissioner may suspend a license, the commissioner may suspend that member's license or permit in accordance with chapter 617.

[ 2001, c. 421, Pt. B, §14 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

**7. Enforcement.** A violation of a marine resources law or rule by a member of the Passamaquoddy Tribe who is issued a license or permit pursuant to this section must be enforced pursuant to chapter 609. A member of the Passamaquoddy Tribe who is issued a license or permit pursuant to this section must possess and exhibit that license or permit in accordance with section 6305 and must comply with the provisions of section 6306 regarding inspections and searches by marine patrol officers for violations related to licensed or permitted activities.

[ 1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF) .]

**8. Resident of the State defined.** For the purposes of this section, "resident of the State" means a member of the Passamaquoddy Tribe who is eligible to obtain a state resident license under section 6301, subsection 1.

[ 1997, c. 708, §1 (NEW); 1997, c. 708, §3 (AFF) .]

#### SECTION HISTORY

1997, c. 708, §1 (NEW). 1997, c. 708, §3 (AFF). 1999, c. 491, §3 (AMD). 1999, c. 491, §9 (AFF). 2001, c. 421, §B14 (AMD). 2001, c. 421, §C1 (AFF). 2009, c. 396, §1 (AMD).

## 12 §6303. APPLICATION

**1. Forms.** Application shall be made on forms furnished by the commissioner.

[ 1977, c. 661, §5 (NEW) .]

**2. Misrepresentation or error.** Any license issued through misrepresentation or misstatement shall be void. Any license issued through error shall be void after notice to the holder.

[ 1977, c. 661, §5 (NEW) .]

**3. Satisfactory answers.** Failure or refusal to satisfactorily answer any question on or about the application shall be a basis for denying the application.

[ 1977, c. 661, §5 (NEW) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW).

## 12 §6304. FEES

**1. One-half fee after September 30th.**

[ 1993, c. 499, §1 (RP) .]

**2. Duplication.** Licenses that have been lost or destroyed must be reissued at a cost of \$6.

[ 2009, c. 213, Pt. G, §1 (AMD) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1993, c. 499, §1 (AMD). 2003, c. 20, §WW1 (AMD). 2009, c. 213, Pt. G, §1 (AMD).

## 12 §6305. POSSESSION OF LICENSE

**1. Exhibit on demand.** When any person is engaged in an activity which is licensed under marine resources' laws, he shall, on the request of a marine patrol officer or other authorized person, exhibit his license.

[ 1979, c. 541, Pt. B, §73 (AMD) .]

**2. Prima facie evidence.** A failure to exhibit a license within a reasonable time, when requested, shall be prima facie evidence that the person is not licensed.

[ 1977, c. 661, §5 (NEW) .]

**3. Crew members.** If crew members are included in the license for any operation, any bona fide crew member may carry out that operation if the license is in his possession.

[ 1977, c. 661, §5 (NEW) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW).

## 12 §6306. CONSENT TO INSPECTION; VIOLATION

**1. Consent to inspection.** Any person who signs an application for a license or aquaculture lease or receives a license or aquaculture lease under this Part has a duty to submit to inspection and search for violations related to the licensed activities by a marine patrol officer under the following conditions.

A. Watercraft or vehicles and the equipment located on watercraft or vehicles used primarily in a trade or business requiring a license or aquaculture lease under this Part may be searched or inspected at any time. [2009, c. 229, §14 (AMD).]

B. Any other location where activities subject to this Part are conducted may be inspected or searched during the hours when those activities occur. [1987, c. 713, §2 (NEW).]

C. A location specified in paragraph B may be inspected at any time if a marine patrol officer has a reasonable suspicion of a violation of this Part. [1987, c. 713, §2 (NEW).]

D. No residential dwelling may be searched without a search warrant unless otherwise allowed by law. [1987, c. 713, §2 (NEW).]

[ 2009, c. 229, §14 (AMD) .]

**2. Seizure of evidence.** Any person who signs an application for a license or aquaculture lease or receives a license or aquaculture lease under this Part has a duty to permit seizure of evidence of a violation of marine resources laws found during an inspection or search.

[ 2009, c. 229, §14 (AMD) .]

**3. Refusal.** Refusal to permit inspection or seizure is a basis for suspension of any or all licenses under this chapter or revocation of aquaculture leases.

[ 2009, c. 229, §14 (AMD) .]

#### SECTION HISTORY

1977, c. 661, §5 (NEW). 1987, c. 713, §2 (AMD). 1989, c. 348, §4 (AMD). 2009, c. 229, §14 (AMD).

## 12 §6307. MISSTATEMENT OR MISREPRESENTATION

It shall be unlawful to intentionally or knowingly make a misstatement or misrepresentation on an application for a license or certificate. [1977, c. 661, §5 (NEW).]

#### SECTION HISTORY

1977, c. 661, §5 (NEW).

## 12 §6308. COMPLIANCE WITH SUPPORT ORDERS; LICENSE QUALIFICATIONS AND CONDITIONS

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201. [1997, c. 537, §4 (AMD); 1997, c. 537, §62 (AFF).]

#### SECTION HISTORY

1993, c. 410, §V2 (NEW). 1995, c. 694, §D9 (AMD). 1995, c. 694, §E2 (AFF). 1997, c. 537, §4 (AMD). 1997, c. 537, §62 (AFF).

## 12 §6309. LICENSEES NOT IN COMPLIANCE WITH A COURT ORDER OF SUPPORT; ENFORCEMENT OF PARENTAL SUPPORT OBLIGATIONS

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Compliance with a support order" means that the support obligor has obtained or maintained health insurance coverage if required by a support order and is:

(1) No more than 60 days in arrears in making any of the following payments:

- (a) Payments in full for current support;
- (b) Periodic payments on a support arrearage pursuant to a written agreement with the Department of Health and Human Services; and
- (c) Periodic payments as set forth in a support order; and

(2) No more than 30 days in arrears in making payments as described in subparagraph (1) if the obligor has been in arrears for more than 30 days in making payments as described in subparagraph (1) at least 2 times within the past 24 months. [2003, c. 396, §3 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

B. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the

issuing state, or a child and the parent with whom the child is living, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief. [2003, c. 396, §3 (RPR).]

[ 2003, c. 396, §3 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

**2. Noncompliance with a support order.** An applicant for the issuance or renewal of a license or an existing licensee regulated by the department under this subpart who is not in compliance with a support order is subject to the requirements of Title 19-A, section 2201.

[ 2003, c. 396, §4 (AMD) .]

#### SECTION HISTORY

1993, c. 410, §V2 (NEW). 1995, c. 694, §D10 (AMD). 1995, c. 694, §E2 (AFF). 1997, c. 537, §5 (AMD). 1997, c. 537, §62 (AFF). 2003, c. 396, §§3,4 (AMD). 2003, c. 689, §B6 (REV).

## 12 §6310. APPEAL OF LICENSE DENIAL

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

**1. Appeal of license denial.** A person who is denied a Class I, Class II or Class III lobster and crab fishing license because that person does not meet the eligibility requirements of section 6421, subsection 5, paragraph A or a person who is denied a handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license because that person does not meet the eligibility requirements of section 6749-O, subsection 2-A may appeal to the commissioner under this section for a review of that license denial.

[ 1999, c. 643, §1 (NEW) .]

**2. Criteria for license issuance on appeal.** The commissioner may issue a license on appeal only if the criteria in this subsection are met.

A. (TEXT EFFECTIVE 10/1/10) A Class I, Class II or Class III lobster and crab fishing license may be issued to a person on appeal only if:

- (1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in 1997, 1998 or 1999, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person may not request an appeal under this subparagraph after December 31, 2001;
- (2) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in licensing year 2000 or in subsequent years, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition; or
- (3) Service in the United States Armed Forces or the United States Coast Guard precluded that person from participating in the lobster fishery and meeting the eligibility requirements for a license, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to entering the service.

The person may not have served for more than 6 consecutive years since the most recent year in which the person held a license, and the person must have been honorably discharged from service. A person must request an appeal under this subparagraph within one year of discharge from service. [1999, c. 643, §1 (NEW).]

A. (TEXT EFFECTIVE UNTIL 10/1/10) A Class I, Class II or Class III lobster and crab fishing license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in 1997, 1998 or 1999, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person may not request an appeal under this subparagraph after December 31, 2001;

(2) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for a license in licensing year 2000 or in subsequent years, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition;

(3) Service in the United States Armed Forces or the United States Coast Guard precluded that person from participating in the lobster fishery and meeting the eligibility requirements for a license, and the person documents that the person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to entering the service. The person may not have served for more than 6 consecutive years since the most recent year in which the person held a license, and the person must have been honorably discharged from service. A person must request an appeal under this subparagraph within one year of discharge from service ; or

(4) That person was diagnosed with muscular dystrophy between 1983 and 1988 and that person harvested lobsters while in possession of a Class I, Class II or Class III lobster and crab fishing license within one year prior to the diagnosis but has not held a Class I, Class II or Class III lobster and crab fishing license since the year following that person's diagnosis with the disease. The person must provide the commissioner with documentation from a physician of the diagnosis of muscular dystrophy and a statement from a physician that the person is currently physically capable of safely conducting the activities involved with the commercial harvest of lobsters. A person that receives a Class I, Class II or Class III lobster and crab fishing license pursuant to this subparagraph is limited to 300 trap tags and those trap tags expire when the person is no longer eligible to hold the license and may not be counted in an exit ratio system for a lobster management zone. This subparagraph is repealed October 1, 2010. [2009, c. 188, §1 (AMD); 2009, c. 188, §3 (AFF).]

B. A handfishing sea urchin license, a sea urchin dragging license or a sea urchin hand-raking and trapping license may be issued to a person on appeal only if:

(1) A substantial illness or medical condition on the part of the person or a family member prevented that person from meeting the eligibility requirements for that license, and the person documents that the person harvested sea urchins while in possession of the same license within one year prior to the onset of the illness or medical condition. The person shall provide the commissioner with documentation from a physician describing the illness or other medical condition. A person must request an appeal under this subparagraph within one year of the onset of the illness or medical condition; or

(2) Service in the United States Armed Forces or the United States Coast Guard precluded that person from participating in the urchin fishery and meeting the eligibility requirements for that license and the person documents that the person harvested sea urchins while in possession of the same license within one year prior to entering the service. The person may not have served for more than 6 consecutive years since the most recent year in which the person held a license, and the person must have been honorably discharged from service. A person must request an appeal under this subparagraph within one year of discharge from service. [1999, c. 643, §1 (NEW).]

For the purposes of this subsection, "family member" means a spouse, brother, sister, son-in-law, daughter-in-law, parent by blood, parent by adoption, mother-in-law, father-in-law, child by blood, child by adoption, stepchild, stepparent, grandchild or grandparent.

[ 1999, c. 643, §1 (NEW); 2009, c. 188, §1 (AMD); 2009, c. 188, §3 (AFF) .]

**3. Appeals process.** A person appealing a license denial under this section must request the appeal in writing. The commissioner shall hold a hearing on the appeal if a hearing is requested in writing within 10 days of the initial request for appeal. If a hearing is requested, it must be held within 30 days of the request unless a longer period is mutually agreed to in writing, and it must be conducted in the Augusta area.

A hearing held under this subsection is informal. At the hearing, the appellant may present any evidence concerning the criteria listed in subsection 2 that might justify issuing a license to the person, and the commissioner may request any additional information the commissioner considers necessary. Any medical information provided as part of the appeal is a confidential record for the purposes of Title 1, section 402, subsection 3, paragraph A.

[ 1999, c. 643, §1 (NEW) .]

**4. Issuance on appeal.** Issuance of a license on appeal is at the discretion of the commissioner, except that a license may not be issued unless the criteria in subsection 2 are met. Decisions of the commissioner must be in writing.

[ 1999, c. 643, §1 (NEW) .]

#### SECTION HISTORY

1999, c. 643, §1 (NEW). 2009, c. 188, §1 (AMD). 2009, c. 188, §3 (AFF).

## 12 §6311. ACTIVE DUTY MILITARY MEMBERS

**1. Definition.** As used in this section, unless the context otherwise indicates, "active duty for a period of more than 30 days" has the same meaning as in 10 United States Code, Section 101(d)(2).

[ 2005, c. 111, §2 (NEW) .]

**2. Partial waiver of lobster apprentice requirements.** Notwithstanding Title 37-B, section 390-A or any other provision of this Part, the commissioner shall waive a portion of the number of days and hours of practical lobster fishing experience required under the apprentice program established pursuant to section 6422, subsection 1 for a person who is a member of the National Guard or the Reserves of the United States Armed Forces if:

- A. The person was under an order to active duty for a period of more than 30 days; [2005, c. 111, §2 (NEW) .]
- B. The period of active duty conflicts with the requirements of the apprentice program; and [2005, c. 111, §2 (NEW) .]

C. The person was licensed pursuant to section 6421, subsection 1, paragraphs D and E. [ 2005, c. 111, §2 (NEW) . ]

This waiver does not apply to the 2-year minimum required under section 6422, subsection 2.

[ 2005, c. 111, §2 (NEW) . ]

**3. Waiver of licensing requirements.** Notwithstanding Title 37-B, section 390-A or any other provision of this Part, the commissioner shall waive the licensing requirements under section 6421, subsection 5, paragraph A; section 6505-A, subsection 2, paragraph C; and section 6749-O, subsection 2-A for a person who is a member of the National Guard or the Reserves of the United States Armed Forces and was under an order to active duty for a period of more than 30 days. This subsection does not apply to a person who did not possess a license pursuant to section 6421, 6505-A, 6748, 6748-D or 6749 or in the calendar year prior to that person's being called to active duty.

[ 2005, c. 111, §2 (NEW) . ]

**4. Limited application.** This section applies only if the member's service is in support of:

A. An operational mission for which members of the Reserves of the United States Armed Forces have been ordered to active duty without volunteering for that mission; or [ 2005, c. 111, §2 (NEW) . ]

B. Forces activated during a period of war declared by the United States Congress or a period of national emergency declared by the President of the United States or the United States Congress. [ 2005, c. 111, §2 (NEW) . ]

[ 2005, c. 111, §2 (NEW) . ]

#### SECTION HISTORY

2005, c. 111, §2 (NEW) .

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