

Maine Revised Statute Title 12, Chapter 617: LICENSE SUSPENSION

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Subchapter 1: SUSPENSION PROCEEDINGS

Article 1: SUSPENSION ON CONVICTION

12 §6351. SUSPENSION BASED ON CRIMINAL CONVICTION OR CIVIL ADJUDICATION

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.

[2001, c. 421, Pt. B, §15 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

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; [2001, c. 421, Pt. B, §15 (NEW); 2001, c. 421, Pt. C, §1 (AFF).]

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

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

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

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

[2009, c. 394, §1 (AMD) .]

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.

[2009, c. 394, §2 (NEW) .]

SECTION HISTORY

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

12 §6352. NOTICE

The commissioner shall give notice of a suspension or a revocation and may give an opportunity for a hearing to the holder. [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.

[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; [2009, c. 151, §1 (NEW) .]

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

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

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

[2009, c. 151, §1 (RPR) .]

3. Hearing.

[2009, c. 151, §1 (RP) .]

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

[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.

[2009, c. 151, §1 (NEW) .]

SECTION HISTORY

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

12 §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.

[2009, c. 151, §2 (RPR) .]

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.

[1991, c. 390, §4 (AMD) .]

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

[2009, c. 151, §3 (AMD) .]

SECTION HISTORY

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

Article 2: SUSPENSION WITHOUT CONVICTION

12 §6371. SUSPENSION WITHOUT CRIMINAL CONVICTION OR CIVIL ADJUDICATION

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.

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

2. Suspension for refusal to allow a shellfish inspection or for violation of shellfish sanitation provisions. Refusal to allow a shellfish inspection under section 6856 or violation of shellfish sanitation regulations adopted 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 for these reasons, the commissioner shall follow the procedures of section 6373.

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

3. Suspension for violations. Violation of any section of marine resources laws is grounds for suspension of any licenses or certificates issued under this Part. In order to suspend a license or certificate for a violation, the commissioner shall follow the procedures for license suspension or revocation in the District Court, as provided under Title 4, chapter 5.

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

SECTION HISTORY

1977, c. 661, §5 (NEW). 1999, c. 547, §B29 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 421, §B16 (AMD). 2001, c. 421, §C1 (AFF).

12 §6372. PROCEDURE FOR SUSPENDING ON REFUSAL TO ALLOW INSPECTION

Notwithstanding the Maine Administrative Procedure Act, the procedure for suspending a license or refusal to allow inspection or seizure under section 6306 shall be as follows. [1977, c. 661, §5 (NEW) .]

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 his license has been suspended.

[1979, c. 541, Pt. B, §73 (AMD) .]

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.

[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; [2009, c. 151, §4 (AMD) .]

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

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

[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 he finds that suspension will cause undue hardship.

[1979, c. 541, Pt. B, §15 (AMD) .]

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.

[1977, c. 661, §5 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 541, §B15 (AMD). 2009, c. 151, §4 (AMD).

12 §6373. PROCEDURE FOR SUSPENDING FOR VIOLATION OF A SHELLFISH PROVISION

In order to suspend a license or certificate for refusal to allow a shellfish inspection or for violation of shellfish sanitation regulations, the commissioner shall follow the procedures for license suspension or revocation in the District Court, as provided under Title 4, chapter 5. The suspension for these reasons must be a summary action necessary to prevent an immediate threat to the public health, safety and welfare and must be an emergency proceeding under Title 4, section 184, subsection 6. [1999, c. 547, Pt. B, §30 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

Nothing in this section shall limit the commissioner's powers to embargo or condemn under section 6856. [1977, c. 661, §5 (NEW).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1999, c. 547, §B30 (AMD). 1999, c. 547, §B80 (AFF).

Subchapter 2: SUSPENSION PENALTIES

12 §6401. SUSPENSION BASED ON CRIMINAL CONVICTION

1. Violation of marine resources laws. 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.

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

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

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

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

[2001, c. 421, Pt. B, §17 (AMD); 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.

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

SECTION HISTORY

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

12 §6402. SUSPENSION BASED ON ADJUDICATION OF MOLESTING

(CONFLICT)

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 in court of violating section 6434. This suspension is for 3 years from the date of conviction. For a 3rd or subsequent conviction, the commissioner may permanently revoke the license holder's license. [2009, c. 394, §3 (AMD).]

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 adjudicated in court of violating section 6434. This suspension is for 3 years from the date of adjudication. [2009, c. 151, §5 (AMD).]

SECTION HISTORY

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

12 §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. [1987, c. 1, §1 (AMD).]

SECTION HISTORY

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

12 §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. [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.

[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.

[1995, c. 315, §1 (NEW) .]

3. Offenses after July 1, 1994.

[2009, c. 394, §4 (RP) .]

SECTION HISTORY

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

12 §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. [1995, c. 169, §1 (NEW).]

SECTION HISTORY

1995, c. 169, §1 (NEW).

12 §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. [1977, c. 661, §5 (NEW).]

SECTION HISTORY

1977, c. 661, §5 (NEW).

12 §6404. SUSPENSION BASED ON CONVICTION OF SCRUBBING LOBSTERS

The commissioner shall suspend 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. The suspension must be for one year from the date of conviction. [2007, c. 201, §3 (AMD).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1995, c. 468, §2 (AMD). 2007, c. 201, §3 (AMD).

12 §6404-A. SUSPENSION BASED ON ADJUDICATION OF MOLESTING ELVER GEAR

The commissioner shall suspend the elver fishing license of any license holder adjudicated in court of violating section 6575-D. This suspension must be for one year from the date of adjudication. [2001, c. 421, Pt. B, §18 (AMD); 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

1995, c. 536, §A5 (NEW). 2001, c. 421, §B18 (AMD). 2001, c. 421, §C1 (AFF).

12 §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. [2003, c. 510, Pt. B, §4 (AMD).]

SECTION HISTORY

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

12 §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. [1999, c. 244, §1 (NEW).]

SECTION HISTORY

1999, c. 244, §1 (NEW).

12 §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. [2001, c. 327, §3 (NEW).]

SECTION HISTORY

2001, c. 327, §3 (NEW).

12 §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. [2003, c. 200, §1 (NEW).]

SECTION HISTORY

2003, c. 200, §1 (NEW).

12 §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. [2007, c. 615, §8 (NEW).]

SECTION HISTORY

2007, c. 615, §8 (NEW).

12 §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. [2009, c. 72, §1 (NEW).]

SECTION HISTORY

2009, c. 72, §1 (NEW).

12 §6405. TRAP REMOVAL

Any person whose lobster and crab fishing license has been suspended shall, within 5 days of suspension, remove from the water all of his 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. [1977, c. 713, §3 (AMD).]

During the removal period, the license holder shall not sell, lease or otherwise transfer ownership of the 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 his traps or cars, if that assistance is required because of personal hardship or a large number of traps. [1979, c. 283, §1 (NEW).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1977, c. 713, §3 (AMD). 1979, c. 283, §1 (AMD).

12 §6406. ENGAGING IN ACTIVITIES WHILE UNDER SUSPENSION

SECTION HISTORY

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

12 §6407. CONVICTION; JUVENILE OFFENSE; FAILURE TO APPEAR

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

1. Conviction. A judgment of guilt shall be considered a conviction during the pendency of appeal;

[1977, c. 661, §5 (NEW) .]

2. Juvenile offense. A conviction as a juvenile offense shall be considered a conviction; and

[1977, c. 661, §5 (NEW) .]

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

[1977, c. 661, §5 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW).

12 §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. [1999, c. 643, §2 (NEW).]

SECTION HISTORY

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

12 §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 until the person pays the fine. On payment of the fine and on condition of payment of a \$25 reinstatement fee to the department, the clerk of the court in which the suspension was ordered shall rescind the suspension and notify the department, which, upon receipt of the \$25 reinstatement fee, shall delete any record of the suspension from that person's record. For the purposes of this section, "fine" has the same meaning as in Title 14, section 3141, subsection 1. [1999, c. 2, §13 (RAL).]

SECTION HISTORY

RR 1999, c. 2, §13 (RAL).

12 §6410. SUSPENSION OF LICENSE FOR FAILURE TO COMPLY WITH COURT ORDER OF SUPPORT

If 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. On condition of payment of a \$25 reinstatement fee to the department, the suspension is rescinded and the license reinstated. [2003, c. 520, §3 (NEW).]

SECTION HISTORY

2003, c. 520, §3 (NEW).

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