

**Maine Revised Statute Title 12, Chapter 625:
WHOLESALE AND RETAIL LICENSES**

Table of Contents

Part 9. MARINE RESOURCES.....

Subpart 2. LICENSING.....

 Section 6851. WHOLESALE SEAFOOD LICENSE; WHOLESALE SEAFOOD LICENSE WITH LOBSTER PERMIT; WHOLESALE SEAFOOD LICENSE WITH URCHIN PERMIT; WHOLESALE SEAFOOD LICENSE WITH SHRIMP PERMIT..... 3

 Section 6851-A. LIMITED WHOLESALE SHELLFISH HARVESTER'S LICENSE..... 5

 Section 6852. RETAIL SEAFOOD LICENSE..... 5

 Section 6852-A. ENHANCED RETAIL SEAFOOD LICENSE..... 6

 Section 6853. MARINE WORM DEALER'S LICENSE..... 7

 Section 6854. LOBSTER TRANSPORTATION LICENSE..... 8

 Section 6855. SHELLFISH TRANSPORTATION LICENSE..... 9

 Section 6856. SHELLFISH SANITATION AND DEPURATION CERTIFICATE..... 10

 Section 6857. LOBSTER MEAT PERMIT..... 13

 Section 6858. SIZE AND CONDITION OF LOBSTER MEAT..... 14

 Section 6859. UNMARKED LOBSTER SHIPPING CONTAINER..... 15

 Section 6860. LABELING OF SHRIMP..... 16

 Section 6861. CRAWFISH; LICENSE; MEAT; MIX OR COMMINGLE; LISTING (REPEALED)..... 16

 Section 6861-A. PERMITTED AND PROHIBITED ACTIVITIES FOR CRAYFISH DEALERS..... 16

 Section 6862. LOBSTER TAIL PERMIT..... 17

 Section 6863. CULTCHLESS AMERICAN OYSTER GROWERS LICENSE..... 18

 Section 6864. ELVER DEALER'S LICENSE..... 19

12 §6851. WHOLESALE SEAFOOD LICENSE; WHOLESALE SEAFOOD LICENSE WITH LOBSTER PERMIT; WHOLESALE SEAFOOD LICENSE WITH URCHIN PERMIT; WHOLESALE SEAFOOD LICENSE WITH SHRIMP PERMIT

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Wholesale seafood license; [2003, c. 452, Pt. F, §26 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental wholesale seafood license; or [2003, c. 452, Pt. F, §26 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. Other license issued under this Part authorizing the activities. [2003, c. 452, Pt. F, §26 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §26 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. License activities. The holder of a wholesale seafood license may, in the wholesale or retail trade:

A. Within or beyond the state limits, buy, sell, process, ship or transport any marine species or their parts, except lobsters, sea urchins and shrimp; [1999, c. 491, §6 (AMD); 1999, c. 491, §9 (AFF).]

B. Within or beyond the state limits, buy, sell, shuck, pack, ship or, within the state limits, transport fresh or frozen shellfish, except lobsters, to the extent these activities are expressly authorized by a shellfish certificate issued under section 6856; or [1991, c. 523, §3 (AMD).]

C. [1991, c. 523, §3 (RP).]

D. Buy, sell, process, ship or, within the state limits, transport crayfish. [1989, c. 348, §9 (NEW) .]

[1999, c. 491, §6 (AMD); 1999, c. 491, §9 (AFF) .]

2-A. Wholesale seafood license with lobster permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a lobster permit. A person holding a wholesale seafood license with a lobster permit may engage in all the activities in subsection 2 and may buy, sell, process or ship lobster or properly permitted or lawfully imported lobster meat or parts. A person holding a wholesale seafood license with a lobster permit may transport lobster or properly permitted or lawfully imported lobster meat or parts anywhere within the state limits. A license under this subsection does not authorize a person to possess or transport lobster that person has taken unless that person is in possession of a license issued under section 6421, subsection 3-A, paragraph A, B, C or E. A license under this subsection does not authorize a person to remove lobster meat from the shell unless a permit under section 6857 is held.

[2007, c. 615, §21 (AMD) .]

2-B. Wholesale seafood license with a sea urchin buyer's permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a sea urchin buyer's permit. A person holding a wholesale seafood license with a sea urchin buyer's permit may engage in all the activities in subsection 2 and may buy, sell, ship or transport whole sea urchins. A license under this subsection does not authorize a person to engage in the processing of sea urchins or to buy, sell, ship or transport sea urchin parts.

[1993, c. 740, §4 (NEW) .]

2-C. Wholesale seafood license with a sea urchin processor's permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a sea urchin processor's permit. A person holding a wholesale seafood license with a sea urchin processor's permit may engage in all the activities in subsection 2 and may buy, sell, process, ship or transport whole sea urchins or sea urchin parts.

[1993, c. 740, §4 (NEW) .]

2-D. Wholesale seafood license with shrimp permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a shrimp permit. A person holding a wholesale seafood license with a shrimp permit may engage in all of the activities in subsection 2 and may buy, sell, ship or transport shrimp.

[2003, c. 170, §4 (AMD) .]

3. Exceptions. This section does not apply to smoked herring or alewives.

[1991, c. 523, §3 (AMD) .]

4. License limited. A license under this section authorizes activities at only one establishment or with only one vehicle, but not on a vessel rigged to fish, provided that this license also authorizes the sale and transportation of scallops from any vessel. The limitation in this subsection does not apply to holders of licenses issued under section 6421 when they are transporting lobsters on the vessel they have declared on their lobster license application.

[2005, c. 239, §9 (AMD) .]

5. Supplemental license. A supplemental license must be obtained for each additional establishment or vehicle.

[1991, c. 523, §3 (AMD) .]

6. Fees. The fees are as follows:

A. Four hundred forty-three dollars for a wholesale seafood license or a wholesale seafood license with a lobster permit, sea urchin buyer's permit, shrimp permit or sea urchin processor's permit; and [2009, c. 213, Pt. G, §36 (AMD).]

B. Eighty-seven dollars for each supplemental license. [2009, c. 213, Pt. G, §36 (AMD).]

[2009, c. 213, Pt. G, §36 (AMD) .]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §54 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 127, §87 (AMD). 1979, c. 590, §2 (AMD). 1981, c. 480, §§8,15,16 (AMD). 1983, c. 230, (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1985, c. 379, §6 (AMD). 1989, c. 348, §§8,9 (AMD). 1991, c. 523, §3 (AMD). 1991, c. 528, §T14 (AMD). 1991, c. 591, §T14 (AMD). 1991, c. 784, §8 (AMD). 1991, c. 528, §RRR (AFF). 1993, c. 740, §§4,5 (AMD). 1997, c. 19, §§8,9 (AMD). 1999, c. 491, §6 (AMD). 1999, c. 491, §9 (AFF). 2001, c. 421, §§B53,54 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW22 (AMD). 2003, c. 170, §4

(AMD). 2003, c. 452, §F26 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 239, §§8,9 (AMD). 2007, c. 615, §21 (AMD). 2009, c. 213, Pt. G, §36 (AMD).

12 §6851-A. LIMITED WHOLESALE SHELLFISH HARVESTER'S LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current commercial shellfish license issued under section 6601.

[2005, c. 508, §1 (NEW) .]

2. Licensed activity. A holder of a limited wholesale shellfish harvester's license may, within or beyond the state limits, sell, ship or transport in the wholesale trade only shellfish the holder has taken.

[2005, c. 508, §1 (NEW) .]

3. License limited. A limited wholesale shellfish harvester's license authorizes activities under this section at only one establishment and with only one vehicle.

[2005, c. 508, §1 (NEW) .]

4. Fee. The fee for a limited wholesale shellfish harvester's license is \$115.

[2009, c. 213, Pt. G, §37 (AMD) .]

SECTION HISTORY

2005, c. 508, §1 (NEW). 2009, c. 213, Pt. G, §37 (AMD).

12 §6852. RETAIL SEAFOOD LICENSE

1. License required. A person may not engage in the activities authorized under this section without a retail seafood license or other license issued under this Part authorizing the activities.

[2001, c. 421, Pt. B, §55 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. License activity. The holder of a retail seafood license may, in the retail trade within the state limits, buy, sell, transport, ship or serve:

A. Shellstock and shucked shellfish if they are bought from a wholesale seafood license holder certified under section 6856; [2005, c. 434, §11 (AMD).]

B. [2005, c. 434, §11 (RP).]

C. Lobster parts or meat, if they are permitted under section 6857, or have been lawfully imported; [2005, c. 434, §11 (AMD).]

D. Crayfish; or [2005, c. 434, §11 (AMD).]

E. Lobsters. [2005, c. 434, §11 (NEW).]

[2005, c. 434, §11 (AMD) .]

3. License limited. A license authorizes these activities at only one establishment or with only one vehicle.

[2001, c. 421, Pt. B, §55 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Fee. The fee for a retail seafood license is \$122.

[2009, c. 213, Pt. G, §38 (AMD) .]

5. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §56 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

6. Rules. The commissioner may adopt or amend rules that establish requirements for retail seafood license holders concerning:

A. The minimum sanitation standards for establishments and vehicles; [2005, c. 434, §12 (NEW) .]

B. The sanitation and quality control standards for shellfish and whole scallops and their products; [2005, c. 434, §12 (NEW) .]

C. The methods for handling, shipping and transporting of shellfish and whole scallops; [2005, c. 434, §12 (NEW) .]

D. The records and reports of purchases, shipping and transporting of shellfish and whole scallops; [2005, c. 434, §12 (NEW) .]

E. The labeling or marking of shipments of shellfish and wholesale scallops; and [2005, c. 434, §12 (NEW) .]

F. The protection of public health. [2005, c. 434, §12 (NEW) .]

Rules adopted pursuant to this subsection must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data and must be designed to protect the public health and safety while allowing reasonable use of shellfish and whole scallops. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 434, §12 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 480, §9 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1985, c. 379, §7 (AMD). 1987, c. 826, §5 (AMD). 1989, c. 348, §§10,11 (AMD). 1991, c. 528, §T15 (AMD). 1991, c. 591, §T15 (AMD). 1991, c. 528, §RRR (AFF). 2001, c. 421, §§B55,56 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW23 (AMD). 2005, c. 434, §§11,12 (AMD). 2009, c. 213, Pt. G, §38 (AMD).

12 §6852-A. ENHANCED RETAIL SEAFOOD LICENSE

1. Licensed required. A person may not engage in the activities authorized under this section without a current enhanced retail seafood license or other license issued under this Part authorizing the activities.

[2009, c. 217, §6 (NEW) .]

2. Licensed activity. The holder of an enhanced retail seafood license may, in the retail trade within the state limits, buy, sell, transport, ship or serve:

A. Shellstock bought from a commercial shellfish license holder licensed under section 6601, a surf clam boat license holder licensed under section 6602, a mahogany quahog license holder licensed under section 6731, a hand-raking mussel license holder licensed under section 6745 and a mussel boat license holder licensed under section 6746; [2009, c. 217, §6 (NEW) .]

B. Shellstock and shucked shellfish if they are bought from a wholesale seafood license holder certified under section 6856; [2009, c. 217, §6 (NEW).]

C. Lobster parts or meat if they are permitted under section 6857 or have been lawfully imported; [2009, c. 217, §6 (NEW).]

D. Crayfish; and [2009, c. 217, §6 (NEW).]

E. Lobsters. [2009, c. 217, §6 (NEW).]

[2009, c. 217, §6 (NEW) .]

3. License limited. An enhanced retail seafood license authorizes the activities under subsection 2 at only one establishment or with only one vehicle.

[2009, c. 217, §6 (NEW) .]

4. Fee. The annual fee for an enhanced retail seafood license is \$150. Forty-four dollars of the license fee is dedicated to the Shellfish Fund under section 6651.

[2009, c. 217, §6 (NEW) .]

5. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 or more than \$500 may be adjudged.

[2009, c. 217, §6 (NEW) .]

6. Rules. Rules adopted by the commissioner pursuant to section 6852, subsection 6 are applicable to this section.

[2009, c. 217, §6 (NEW) .]

SECTION HISTORY

2009, c. 217, §6 (NEW).

12 §6853. MARINE WORM DEALER'S LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Marine worm dealer's license; [2003, c. 452, Pt. F, §27 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental marine worm dealer's license; or [2003, c. 452, Pt. F, §27 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. Other license issued under this Part authorizing the activities. [2003, c. 452, Pt. F, §27 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §27 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Licensed activity. The holder of a marine worm dealer's license may buy, possess, ship, transport or sell marine worms.

[1977, c. 661, §5 (NEW) .]

3. License limited. A license authorizes these activities at only one establishment or with only one vehicle.

[2001, c. 421, Pt. B, §57 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Supplemental license. A supplemental license must be obtained for each additional establishment or vehicle.

[2001, c. 421, Pt. B, §57 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

5. Eligibility. The marine worm dealer's license is a resident license.

[2001, c. 421, Pt. B, §57 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

6. Fee. The fee for a marine worm dealer's license is \$64 and the fee for a supplemental license is \$26.

[2009, c. 213, Pt. G, §39 (AMD) .]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §57 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 480, §§10,15,16 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1991, c. 528, §T16 (AMD). 1991, c. 591, §T16 (AMD). 1991, c. 528, §RRR (AFF). 2001, c. 421, §B57 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 452, §F27 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 213, Pt. G, §39 (AMD).

12 §6854. LOBSTER TRANSPORTATION LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Lobster transportation license; or [2003, c. 452, Pt. F, §28 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental lobster transportation license. [2003, c. 452, Pt. F, §28 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §28 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. License activity. The holder of a lobster transportation license may buy from a licensed wholesale seafood dealer and transport beyond the state limits lobsters or their parts or meat. Lobster parts or meat may be transported only if they are properly permitted under section 6857 or lawfully imported.

[2001, c. 421, Pt. B, §58 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

3. License limitations. A license authorizes these activities with only one vehicle owned, leased or rented by the license holder.

[2001, c. 421, Pt. B, §58 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Supplemental license. A supplemental license must be obtained for each additional vehicle.

[2001, c. 421, Pt. B, §58 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

5. Information required. Each application must identify each vehicle or other mode of transportation to be used for transporting lobster.

[2001, c. 421, Pt. B, §58 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

6. Fees. The fee for a lobster transportation license is \$312 and the fee for a supplemental license is \$63.

[2009, c. 213, Pt. G, §40 (AMD) .]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §58 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 127, §88 (AMD). 1981, c. 480, §11 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1985, c. 379, §8 (AMD). 1991, c. 528, §T17 (AMD). 1991, c. 591, §T17 (AMD). 1991, c. 528, §RRR (AFF). 2001, c. 421, §B58 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW24 (AMD). 2003, c. 452, §F28 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 213, Pt. G, §40 (AMD).

12 §6855. SHELLFISH TRANSPORTATION LICENSE

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Shellfish transportation license; or [2003, c. 452, Pt. F, §29 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental shellfish transportation license. [2003, c. 452, Pt. F, §29 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §29 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. License activity. The holder of a shellfish transportation license may buy certified shellfish and transport them beyond the state limits, to the extent these activities are expressly authorized by a shellfish certificate or its equivalent from another state.

[1977, c. 661, §5 (NEW) .]

3. License limitations. All shellfish transported under this license must be procured from a wholesale seafood licensee certified under section 6856. A license authorizes these activities with only one vehicle owned, leased or rented by the license holder.

[2001, c. 421, Pt. B, §59 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Supplemental license. A supplemental license must be obtained for each additional vehicle.

[2001, c. 421, Pt. B, §59 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

5. Information required. Each application must identify each vehicle or other mode of transportation to be used for transporting shellfish.

[2001, c. 421, Pt. B, §59 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

6. Fees. The fee for a shellfish transportation license is \$529 and the fee for a supplemental license is \$173.

[2009, c. 213, Pt. G, §41 (AMD) .]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §59 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 480, §§12,15,16 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1985, c. 379, §9 (AMD). 1987, c. 826, §6 (AMD). 1991, c. 528, §T18 (AMD). 1991, c. 591, §T18 (AMD). 1991, c. 528, §RRR (AFF). 2001, c. 421, §B59 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW25 (AMD). 2003, c. 452, §F29 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 213, Pt. G, §41 (AMD).

12 §6856. SHELLFISH SANITATION AND DEPURATION CERTIFICATE

1. Shellfish sanitation certificate. A person may not undertake the processing, buying, selling, shipping, transporting or shucking of shellfish or whole scallops without a shellfish sanitation certificate unless authorized under section 6701 or 6702. The commissioner may issue a shellfish sanitation certificate to a wholesale seafood license holder, a limited wholesale shellfish harvester's license holder or a shellfish transportation license holder that authorizes the holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish or whole scallops. A wholesale seafood license, limited wholesale shellfish harvester's license or shellfish transportation license is also necessary to undertake the activities authorized under those licenses.

[2005, c. 508, §2 (AMD) .]

2. Express authorizations. The commissioner shall expressly state the authorized activities on each shellfish sanitation certificate. The activities authorized must be sufficient to allow the holder to carry out the holder's wholesale or transportation operations, except that the operations may be limited to the extent required to protect the public health.

[2003, c. 248, §11 (AMD) .]

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on harvesting, depurating and processing methods and any other provisions required to ensure the public safety. A depuration plant operator shall maintain a generalized management plan on file with the commissioner that sets forth a timeline for harvest, harvest limits and harvester selection. The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning.

[2007, c. 15, §1 (AMD) .]

3-A. Municipal consultation and approval; depuration harvesting. Within a municipality that has a municipal shellfish conservation committee established pursuant to section 6671, the following provisions apply to shellfish growing areas that have been downgraded after January 1, 2006 to a restricted classification for water quality as defined in rule.

A. Unless the commissioner obtains the approval of the affected municipality, the commissioner may not open an area downgraded to a restricted classification for depuration harvesting for 2 years from the date of the reclassification to allow the municipality to develop a pollution abatement plan under subsection 3-B. [2007, c. 15, §2 (NEW); 2007, c. 15, §6 (AFF).]

B. Beginning April 1, 2007, a municipality must notify the commissioner within 8 weeks of the reclassification of an area whether or not it intends to develop a pollution abatement plan. If the municipality does not wish to develop a pollution abatement plan in accordance with subsection 3-B or if it fails to notify the commissioner within the 8-week period, municipal approval is not required. [2007, c. 15, §2 (NEW); 2007, c. 15, §6 (AFF).]

C. If a municipal shellfish conservation committee has a pollution abatement plan as provided in subsection 3-B on file with the commissioner, the commissioner must obtain the approval of the committee before taking action to open an area within that municipality for depuration digging. [2007, c. 15, §2 (NEW); 2007, c. 15, §6 (AFF).]

D. If a municipal shellfish conservation committee has a depuration management plan as provided in subsection 3-C approved by the commissioner, the municipality may manage the depuration harvesting over a shellfish growing area within that municipality. [2007, c. 15, §2 (NEW); 2007, c. 15, §6 (AFF).]

[2007, c. 15, §2 (NEW); 2007, c. 15, §6 (AFF) .]

3-B. Municipal pollution abatement plan. A pollution abatement plan must be specific to a particular shellfish growing area and include at least:

A. A shoreline survey as defined by rule; [2007, c. 15, §3 (NEW).]

B. Hydrological and meteorological data pertaining to the area; [2007, c. 15, §3 (NEW).]

C. Pollution source identification; [2007, c. 15, §3 (NEW).]

D. Tasks to be undertaken to remediate the pollution problem; and [2007, c. 15, §3 (NEW).]

E. A timeline for pollution remediation. If the timeline for remediation is longer than 2 years, a scientific resource survey and a standing crop analysis as required by the commissioner must be included in the plan. [2007, c. 15, §3 (NEW).]

[2007, c. 15, §3 (NEW) .]

3-C. Municipal depuration management plan. A depuration management plan must include but is not limited to:

A. A scientific shellfish survey approved by the commissioner; [2007, c. 15, §4 (NEW).]

B. A standing crop analysis with year classes as required by the commissioner; [2007, c. 15, §4 (NEW).]

C. Historical harvest data; and [2007, c. 15, §4 (NEW).]

D. Established annual harvest limits. [2007, c. 15, §4 (NEW).]

[2007, c. 15, §4 (NEW) .]

4. Rules. The commissioner may adopt or amend rules concerning:

- A. The procedures for issuing certificates and the required qualifications for each type of certificate; [1977, c. 661, §5 (NEW).]
- B. The minimum sanitation standards for establishments and vehicles; [1977, c. 661, §5 (NEW).]
- C. The sanitation and quality control standards for shellfish and whole scallops and their products; [2001, c. 112, §3 (AMD).]
- D. The methods for taking, handling, shipping, transporting and processing of shellfish and whole scallops taken from closed areas; [2001, c. 112, §3 (AMD).]
- E. The records and reports of takings, purchases, processing, sales, shipping and transporting of shellfish and whole scallops; [2001, c. 112, §3 (AMD).]
- F. The labeling or marking of shipments of shellfish and whole scallops; and [2001, c. 112, §3 (AMD).]
- G. Other rules necessary to the public health. [2003, c. 248, §11 (AMD).]

The rules must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data, in a manner so as to protect the public health and safety while allowing reasonable use of the State's shellfish and whole scallops.

[2003, c. 248, §11 (AMD) .]

5. Right of entry. Whenever a certificate has been issued under this section, the commissioner, or the commissioner's agent, must have access to any establishment or part thereof for the purpose of inspection or collection of samples. Denial of access is grounds for suspension or revocation of any certificate or license under the provisions of section 6373.

[2003, c. 248, §11 (AMD) .]

6. Products embargoed and condemned. The commissioner, or the commissioner's agent, shall indefinitely embargo, condemn or order to be destroyed any shellfish, shellfish product or whole scallop in any establishment whenever it is determined that the product is of unsound quality, contains any filthy, decomposed or putrid substance, or may be poisonous or deleterious to health or otherwise unsafe. The commissioner and the commissioner's agent shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy.

In the event that any shellfish, shellfish product or whole scallop in any establishment is embargoed, condemned or ordered destroyed, the commissioner, or the commissioner's agent, shall, as soon thereafter as practical, notify the owner in writing of the amount and kind of shellfish, shellfish product or whole scallop embargoed, condemned or destroyed.

[2003, c. 248, §11 (AMD) .]

7. Resident depuration harvesters. Except for depuration activities conducted under subsection 3-A, paragraph D, when harvesting soft-shelled clams under a depuration certificate, the person holding the certificate shall, to the extent possible, employ one person who is a resident of the municipality as harvester for every person employed as harvester who is not a resident of that municipality.

[2007, c. 15, §5 (AMD) .]

8. Payments to municipalities. A person holding a depuration certificate shall pay each municipality an amount equal to 50¢ for each bushel of soft-shelled clams taken in that municipality under that depuration certificate. When submitting payment to a municipality under this subsection, the depuration certificate holder shall include a copy of the applicable record and report of takings submitted to the department pursuant to rules adopted under subsection 4.

[1991, c. 831, §2 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1979, c. 249, (AMD). 1981, c. 462, §6 (AMD). 1989, c. 770, §1 (AMD). 1991, c. 831, §2 (AMD). 2001, c. 112, §§2-4 (AMD). 2003, c. 248, §11 (AMD). 2005, c. 508, §2 (AMD). 2007, c. 15, §§1-5 (AMD). 2007, c. 15, §6 (AFF).

12 §6857. LOBSTER MEAT PERMIT

1. Permit required. A person may not engage in the activities authorized under this section without a current lobster meat permit.

[2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Permitted activity. A lobster meat permit authorizes a wholesale seafood license holder or a retail seafood license holder to remove lobster meat from the shell for sale under the following conditions.

A. The meat may be removed from the shell only at the establishment named in the permit. [2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF).]

B. The meat may come from only legal-sized lobsters. [2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF).]

C. Tail sections must be removed from the shell whole and intact and must be maintained in that state. [2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF).]

D. All containers in which lobster meat is packed after removal and that are to be sold, shipped or transported must be clearly labeled with the lobster meat permit number of the packer. [2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF).]

[2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

3. Exception. A permit is not required to remove lobster meat for serving in hotels and restaurants if the meat is removed from the shell in a hotel or restaurant for serving on the premises.

[2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. License limitation. A permit authorizes these activities at only one location or place of business.

[2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

5. Fee. The fee for a lobster meat permit is \$159.

[2009, c. 213, Pt. G, §42 (AMD) .]

6. Prima facie evidence meat removed for sale. If any lobster meat that has been removed from the shell is found on the premises of any establishment that is engaged in the selling, serving, processing or transporting of food in any form for human consumption, it is prima facie evidence that the meat was removed for sale.

[2001, c. 421, Pt. B, §60 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §60 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 480, §§13,15,16 (AMD). 1983, c. 824, §K3 (AMD). 1985, c. 243, (AMD). 1985, c. 379, §10 (AMD). 1991, c. 528, §T19 (AMD). 1991, c. 591, §T19 (AMD). 1991, c. 528, §RRR (AFF). 2001, c. 421, §B60 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW26 (AMD). 2009, c. 213, Pt. G, §42 (AMD).

12 §6858. SIZE AND CONDITION OF LOBSTER MEAT

1. Size of lobster meat. A person may not possess any tail section of lobster meat removed from the shell except in accordance with rules adopted by the commissioner.

[2003, c. 452, Pt. F, §30 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. Adjustment. Notwithstanding subsection 1, the commissioner shall specify by rule the legal size of lobster meat tail sections in conformity with the minimum legal lobster size in effect.

[1985, c. 677, §§5-7 (NEW) .]

2. Condition of lobster meat. A person may not:

A. Remove a tail section of lobster meat from the shell unless it is removed whole and intact; or
[2003, c. 452, Pt. F, §31 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Possess any tail section of lobster meat removed from the shell that is not whole and intact. [2003, c. 452, Pt. F, §31 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. X, §2 (AFF); 2003, c. 452, Pt. F, §31 (RPR) .]

3. Hotels and restaurants may cut up tail sections for serving; prima facie evidence. Hotels and restaurants may cut up tail sections of lobster meat on the premises immediately prior to and for the purpose of serving it to customers. If cut up tail sections of lobster meat are found under refrigeration in a hotel or restaurant, and they are unmixed with any other food, it is prima facie evidence that the tail sections were not immediately to be served to customers as provided in this section.

[1977, c. 661, §5 (NEW) .]

4. Exception for wholesale dealer. The holder of a wholesale seafood license may, at his regular establishment, cut up lobster tail sections immediately prior to and for the purpose of preserving, canning or freezing them as processed stews, pies, salads, newburgs or chowders.

[1977, c. 661, §5 (NEW) .]

5. Exception for personal use. Any person may cut up tail sections of lobster at his home immediately prior to and for the purpose of personal use.

[1977, c. 661, §5 (NEW) .]

5-A. Exception for hermetically sealed containers. This section shall not apply to hermetically sealed containers.

[1981, c. 433, §11 (NEW) .]

5-B. Exception for certain packages. This section shall not apply to frozen or canned lobster meat if the person possessing it:

A. Is not the first person offering it for sale in this State and maintains records indicating from whom the lobster meat was purchased; and [1987, c. 753, §1 (NEW).]

B. Did not pack the container or know that it contains lobster meat in violation of subsection 1 or 2. [1987, c. 753, §1 (NEW).]

[1987, c. 753, §1 (NEW) .]

5-C. Exception for certain lobster meat. This section does not apply to lobster meat processed under a lobster tail permit issued under section 6862.

[1999, c. 26, §4 (NEW) .]

6. Prima facie evidence. If cut up tail sections of lobster meat are found at an establishment, which is engaged in selling, processing or transporting food in any manner for human consumption, it shall be prima facie evidence that the same were not cut up immediately prior to and for the purpose of personal use.

[1977, c. 661, §5 (NEW) .]

7. Violation. The penalty for violation of this section shall be the same as that provided under section 6431, subsection 7.

[1977, c. 661, §5 (NEW) .]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1981, c. 433, §11 (AMD). 1985, c. 677, §§5-7 (AMD). 1987, c. 753, §1 (AMD). 1991, c. 390, §9 (AMD). 1999, c. 26, §4 (AMD). 2003, c. 452, §§F30,31 (AMD). 2003, c. 452, §X2 (AFF).

12 §6859. UNMARKED LOBSTER SHIPPING CONTAINER

A person who ships, offers to ship or accepts for shipment any lobsters or their parts in any container that is not clearly marked to indicate that it contains lobsters commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged. [1999, c. 771, Pt. B, §10 (AMD); 1999, c. 771, Pt. D, §§1,2 (AFF).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1999, c. 771, §B10 (AMD). 1999, c. 771, §§D1,2 (AFF).

12 §6860. LABELING OF SHRIMP

A person who processes and packages shrimp without clearly marking the country or state of origin on the container commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged. [1999, c. 771, Pt. B, §10 (AMD); 1999, c. 771, Pt. D, §§1,2 (AFF).]

SECTION HISTORY

1977, c. 661, §5 (NEW). 1999, c. 771, §B10 (AMD). 1999, c. 771, §§D1,2 (AFF).

12 §6861. CRAWFISH; LICENSE; MEAT; MIX OR COMMINGLE; LISTING

(REPEALED)

SECTION HISTORY

1977, c. 661, §5 (NEW). 1985, c. 379, §11 (AMD). 1987, c. 513, §9 (AMD). 1989, c. 348, §12 (RP).

12 §6861-A. PERMITTED AND PROHIBITED ACTIVITIES FOR CRAYFISH DEALERS

1. Meat. Crayfish meat is subject to the following prohibitions.

A. A person may not possess crayfish meat removed from the shell except as follows:

- (1) For immediate personal consumption;
- (2) For the purpose of serving the meat immediately to a customer;
- (3) Under refrigeration and in its original container, clearly labeled as crayfish, with the country or state of origin clearly disclosed; or
- (4) Mixed with other food if receipts are available to prove the product is crayfish. [2003, c. 452, Pt. F, §32 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

B. It is prima facie evidence that lobster or crayfish meat is illegal lobster meat if the crayfish or lobster meat is outside the shell; is not in its original container and clearly labeled as crayfish, with the country or state of origin clearly disclosed; and:

- (1) Does not meet the legal length requirements for lobster established in section 6858; or
- (2) Is unmixed with any other food and there are no receipts available to prove the product is crayfish. [2003, c. 452, Pt. F, §32 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. F, §32 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Mix or commingle. A person may not:

A. Mix or commingle crayfish in any form with lobster; [2003, c. 452, Pt. F, §33 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Cause or allow crayfish to be mixed or commingled with lobster; or [2003, c. 452, Pt. F, §33 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. Possess a mixture of crayfish and lobster. [2003, c. 452, Pt. F, §33 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. X, §2 (AFF); 2003, c. 452, Pt. F, §33 (RPR) .]

3. List. It shall be unlawful to list, label, advertise, sell, offer for sale or represent, for the purpose of sale, crayfish as lobster or imitation lobster, unless the country or state of origin is clearly disclosed or the listing, labeling or advertising is designed to clearly and affirmatively reflect the product being offered for sale.

[1989, c. 348, §13 (NEW) .]

4. Records. Any person, licensed under section 6851 or 6852 who deals in crayfish, shall make records available to a marine patrol officer on demand.

[1989, c. 348, §13 (NEW) .]

5. Rules. The commissioner shall adopt or amend any rules necessary to supervise and control licensees dealing in crayfish and to protect the interests of the State in the conduct, management and operation of the business of dealing in crayfish to assure compliance with this section.

[1989, c. 348, §13 (NEW) .]

6. Penalties. The following penalties apply to violations of this section.

A. Violation of subsection 1, paragraph A is subject to the general penalty provisions of section 6201. [2003, c. 452, Pt. F, §34 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Violation of subsection 1, paragraph B is subject to the penalty provisions of section 6431, subsection 7. [2003, c. 452, Pt. F, §34 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. Except as provided in paragraphs A and B, violation of this section is a Class D crime, except that the court shall impose a fine of not less than \$100. [2003, c. 452, Pt. F, §34 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. X, §2 (AFF); 2003, c. 452, Pt. F, §34 (RPR) .]

7. License exception for bait purposes. A license shall not be required for crayfish kept or sold for bait purposes and marked or labeled "Not for Human Consumption."

[1989, c. 348, §13 (NEW) .]

SECTION HISTORY

1989, c. 348, §13 (NEW). 2003, c. 452, §§F32-34 (AMD). 2003, c. 452, §X2 (AFF).

12 §6862. LOBSTER TAIL PERMIT

1. Current lobster tail permit. A person may not engage in the activities authorized under this section without a current lobster tail permit.

[2001, c. 421, Pt. B, §61 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. Permitted activity. A lobster tail permit authorizes a wholesale seafood license holder to remove a lobster tail from a lobster and to process that whole lobster tail under the following conditions.

A. The lobster tail may be processed only at the establishment named in the permit. [2005, c. 239, §10 (AMD).]

B. The lobster tail may come from only a legal-sized lobster, as defined in section 6431. [2005, c. 239, §10 (AMD).]

C. All containers in which lobster tails are packed to be sold, shipped or transported must be clearly labeled with the name, address and permit number of the packer. [2005, c. 239, §10 (AMD).]

[2005, c. 239, §10 (AMD) .]

3. Permit limitation. A permit authorizes these activities at only one location or place of business.

[2001, c. 421, Pt. B, §61 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

4. Rules. The commissioner, in accordance with Title 5, chapter 375, may adopt rules necessary for implementation and enforcement of this section. These rules may include provisions for determining that lobster tails processed by a wholesale seafood license holder under this section were removed by that wholesale seafood license holder from legal-sized lobsters and other provisions as may be determined necessary.

[2005, c. 239, §10 (AMD) .]

5. Report; repeal.

[1987, c. 753, §2 (AMD); T. 12, §6862, sub-§5 (RP) .]

6. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §61 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

SECTION HISTORY

1985, c. 129, §2 (NEW). 1985, c. 805, (REN). 1987, c. 753, §2 (AMD). 1987, c. 402, §A214 (REN). 1989, c. 788, §5 (AMD). RR 1991, c. 2, §38 (COR). 1997, c. 84, §1 (AMD). 2001, c. 421, §B61 (AMD). 2001, c. 421, §C1 (AFF). 2005, c. 239, §10 (AMD).

12 §6863. CULTCHLESS AMERICAN OYSTER GROWERS LICENSE

A person may not grow cultchless American oysters in the State unless licensed under this section.

[1991, c. 876, §2 (NEW).]

1. Definitions. For the purposes of this Part, the term "cultchless" means the absence, at the shell hinge, of foreign material or a scar and the term "American oyster" means the genus and species *Crassostrea virginica*.

[1991, c. 876, §2 (NEW) .]

2. License. The commissioner shall establish by rule the criteria for a cultchless American oyster growers license.

[1991, c. 876, §2 (NEW) .]

3. Fee. The annual fee for a cultchless American oyster growers license is \$12.

[2009, c. 213, Pt. G, §43 (AMD) .]

4. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged.

[1999, c. 771, Pt. B, §11 (NEW); 1999, c. 771, Pt. D, §§1,2 (AFF) .]

SECTION HISTORY

1991, c. 876, §2 (NEW). 1999, c. 771, §B11 (AMD). 1999, c. 771, §§D1,2 (AFF). 2009, c. 213, Pt. G, §43 (AMD).

12 §6864. ELVER DEALER'S LICENSE

1. License required. A person may not buy, possess, ship, transport or sell elvers without an elver dealer's license.

[2001, c. 421, Pt. B, §62 (AMD); 2001, c. 421, Pt. C, §1 (AFF) .]

2. License limited. An elver dealer's license authorizes the licensed activities at only one establishment or with only one vehicle.

[1995, c. 536, Pt. A, §10 (NEW); 1995, c. 536, Pt. A, §13 (AFF) .]

3. Supplemental license. A supplemental license must be obtained for each additional establishment or vehicle.

[1995, c. 536, Pt. A, §10 (NEW); 1995, c. 536, Pt. A, §13 (AFF) .]

4. Fee. The fee for an elver dealer's license is \$1,213 and the fee for each supplemental license is \$63.

[2009, c. 213, Pt. G, §44 (AMD) .]

5. Disposition of fees. All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$376 accrues to the General Fund for each elver dealer's license sold under this section and \$52 accrues to the General Fund for each supplemental license sold under this section.

[2009, c. 213, Pt. G, §45 (AMD) .]

6. Reporting.

[2003, c. 170, §5 (RP) .]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[2001, c. 421, Pt. B, §63 (NEW); 2001, c. 421, Pt. C, §1 (AFF) .]

8. Reporting. A dealer licensed under this section shall report the total annual harvest of elvers received by that dealer to the department within 30 days after the end of the elver fishing season. The commissioner shall prescribe how that data and any other information necessary for a meaningful analysis of the elver harvest are reported to the department.

[2005, c. 533, §4 (NEW) .]

SECTION HISTORY

1995, c. 536, §A10 (NEW). 1995, c. 536, §A13 (AFF). 1999, c. 7, §15 (AMD). 2001, c. 421, §§B62,63 (AMD). 2001, c. 421, §C1 (AFF). 2003, c. 20, §WW27 (AMD). 2003, c. 170, §5 (AMD). 2005, c. 533, §4 (AMD). 2009, c. 213, Pt. G, §§44, 45 (AMD).

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