

§6207. Seizure and disposition of equipment and organisms

Any marine organism that is taken, bought, sold, shipped, transported or found in the possession of any person in violation of any provision of marine resources laws and all currency that is used in violation of any provision of marine resources laws is contraband and is subject to forfeiture in accordance with this section and section 6206. All equipment and vehicles used or possessed in violation of any provision of marine resources laws are contraband and are subject to forfeiture. [PL 2019, c. 163, §1 (AMD).]

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

- A. The description of the items seized by the marine patrol officer; [RR 2021, c. 2, Pt. B, §39 (COR).]
 - B. A statement of the date and place of seizure; [PL 1977, c. 661, §5 (NEW).]
 - C. A statement of the violation that causes the seizure; and [PL 1977, c. 661, §5 (NEW).]
 - D. A prayer for a decree of forfeiture of those items. [PL 1977, c. 661, §5 (NEW).]
- [RR 2021, c. 2, Pt. B, §39 (COR).]

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

- A. If the aggregate value of all items seized is less than \$200, unless there is reasonable doubt as to their ownership; and [PL 2013, c. 468, §2 (AMD).]
 - B. All marine organisms of illegal size, shellfish taken from polluted areas, shellfish or shellfish products embargoed, condemned or ordered destroyed by the commissioner, female egg-bearing lobsters, V-notched female lobsters, lobsters which have been mutilated so that their size cannot be determined, female lobsters which have been mutilated so as to obliterate a V-notch, female lobsters which have had the eggs removed by other means than natural hatching, and any other marine organism, the possession of which is unlawful throughout the State. [PL 1981, c. 433, §4 (AMD).]
- [PL 2013, c. 468, §2 (AMD).]

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

- A. A citation to all persons interested to appear at the time and place appointed for the hearing and show cause, if any, why the items described in the libel should not be declared forfeited to the State; [PL 1977, c. 661, §5 (NEW).]
 - B. The time and the place fixed for the hearing; and [PL 1977, c. 661, §5 (NEW).]
 - C. An order that a true copy of the libel and the order of the notice, attested by the marine patrol officer, be mailed to the person from whom the items were seized at that person's last known address and posted in 2 conspicuous places in the municipality, or place where the items were seized, at least 10 days before the day set for the hearing. [PL 2013, c. 468, §3 (AMD).]
- [RR 2021, c. 2, Pt. B, §40 (COR).]

4. Sale or disposition of marine organisms prior to libel. Any marine organism seized pursuant to this section may be sold prior to being libeled under this section by any marine patrol officer. The proceeds of the sale must be libeled in accordance with this section.

A. The officer may sell organisms at public or private sale and hold any proceeds of the sale until the libel is completed. [PL 2013, c. 468, §4 (RPR).]

B. [PL 2013, c. 468, §4 (RP).]

C. All money received from the sale of marine organisms sold in accordance with this subsection must be in the form of a certified or cashier's check made out to the Department of Marine Resources. [PL 2013, c. 468, §4 (NEW).]

[PL 2013, c. 468, §4 (RPR).]

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

A. If the items have been sold in accordance with subsection 4, the officer shall turn the proceeds over to the commissioner, who shall deposit them in the Marine Science, Management and Enforcement Fund established under subsection 12. [PL 2013, c. 468, §5 (AMD).]

[PL 2013, c. 468, §5 (AMD).]

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

A. A statement of the claimant's claimed title or right and its foundation; [RR 2021, c. 2, Pt. B, §41 (COR).]

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

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

D. A statement that the items claimed were not held in possession or use, with the claimant's knowledge or consent, in violation of any provision of marine resources' laws; [RR 2021, c. 2, Pt. B, §42 (COR).]

E. A statement of the claimant's business and place of residence; and [RR 2021, c. 2, Pt. B, §43 (COR).]

F. The claimant shall sign and make oath to the claim before the judge. [RR 2021, c. 2, Pt. B, §44 (COR).]

[RR 2021, c. 2, Pt. B, §§41-44 (COR).]

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

[RR 2021, c. 2, Pt. B, §45 (COR).]

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

[RR 2021, c. 2, Pt. B, §46 (COR).]

9. Forfeiture; executions for cost; appeal; recognizance. If the judge finds that the claimant is not entitled to any item claimed, the judge shall render judgment against the claimant for the State for

costs to be taxed as in civil cases before the judge. The judge shall issue an execution for the costs as in civil cases. The judge shall declare the articles forfeited to the State. If the items have been sold in accordance with subsection 4, the officer shall turn the proceeds of the sale over to the commissioner, who shall deposit them in the Marine Science, Management and Enforcement Fund established under subsection 12.

A. The claimant may appeal to the Superior Court next to be held within the county where the judge's court is located, and, if the claimant appeals, the judge may order the claimant to recognize with sureties as on appeals in civil cases. [PL 2013, c. 468, §6 (AMD).]

B. The judge may order that the items or proceeds of sale remain in the custody of the officer pending the appeal. [PL 1977, c. 661, §5 (NEW).]
[PL 2013, c. 468, §6 (AMD).]

10. Disposition of forfeited items. The officer shall turn over any articles declared forfeited to the commissioner who shall dispose of them.
[PL 1977, c. 661, §5 (NEW).]

11. Report to commissioner. The officer making any seizure under this section shall, within 10 days thereafter, report to the commissioner all the particulars of the seizure, the sale or other disposition, the court action taken and all expenses involved.
[PL 1979, c. 541, Pt. B, §73 (AMD).]

12. Science, management and enforcement fund. The Marine Science, Management and Enforcement Fund, referred to in this subsection as "the fund," is established within the department. The fund receives all funds deposited by the commissioner pursuant to this section. All money received by the fund must be used to fund scientific research, management or enforcement activities related to marine resources. Unexpended balances in the fund at the end of a fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fund. Any interest earned on the money in the fund must be credited to the fund. To the extent practicable, funds received from the sale of items or articles forfeited under this section as a result of a violation of law relating to a particular species must be used for scientific research, management or enforcement activities related to that species.
[PL 2013, c. 468, §7 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 541, §B73 (AMD). PL 1981, c. 433, §4 (AMD). PL 1989, c. 742, §3 (AMD). PL 2013, c. 468, §§2-7 (AMD). PL 2019, c. 163, §1 (AMD). RR 2021, c. 2, Pt. B, §§39-46 (COR).

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