

§6864. Elver dealer's license

1. License required. A person may not buy, possess, transport within state limits or sell elvers without an elver dealer's license. It is unlawful for a person to possess elvers prior to the beginning of the elver season or to possess elvers 5 days beyond the end of the elver season pursuant to section 6575. [PL 2015, c. 45, §1 (AMD).]

1-A. Limits on issuance. The department may not issue an elver dealer's license or a supplemental license after February 1st of the current licensing year. [PL 2013, c. 492, §15 (AMD).]

2. License limited. An elver dealer's license authorizes the licensed activities at only one permanent facility. For the purposes of this section, "permanent facility" means a permanent building that is owned or legally leased by the license holder and is not a dwelling. A permanent facility must have holding tanks with water and aeration suitable to hold elvers. [PL 2015, c. 45, §2 (AMD).]

3. Supplemental license. A supplemental license must be obtained for each vehicle or additional permanent facility. Beginning with the 2015 elver fishing season, a supplemental license authorizes a person to buy elvers from a person licensed under subsection 1 at the permanent facility identified on that person's license or to possess, transport within state limits or sell elvers. [PL 2015, c. 45, §3 (AMD).]

4. Fee. The fee for an elver dealer's license is \$376 and the fee for each supplemental license is \$52. [PL 2017, c. 284, Pt. EEEEE, §29 (AMD).]

5. Surcharge fees. In addition to the license fees established in subsection 4, the commissioner shall assess a surcharge on each license issued under this section, which must be deposited in the Eel and Elver Management Fund established under section 6505-D, as follows:

A. For an elver dealer's license, \$837; and [PL 2017, c. 284, Pt. EEEEE, §30 (NEW).]

B. For a supplemental elver dealer's license, \$11. [PL 2017, c. 284, Pt. EEEEE, §30 (NEW).]
[PL 2017, c. 284, Pt. EEEEE, §30 (RPR).]

6. Reporting.
[PL 2003, c. 170, §5 (RP).]

7. Violation. A person who violates this section commits a Class D crime for which a fine of \$2,000 must be imposed, none of which may be suspended. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. [PL 2013, c. 49, §16 (AMD).]

7-A. Use of elver transaction card required. The department shall issue to a dealer licensed under this section an electronic recording device that records the information on an elver transaction card issued by the department under section 6505-A, subsection 1-C. A dealer licensed under this section shall record each purchase or transfer of elvers from a harvester by using that harvester's elver transaction card. A dealer may not purchase elvers from a harvester that does not present an elver transaction card. [PL 2013, c. 468, §37 (NEW).]

7-B. Use of elver dealer transaction card required. The department shall issue to a dealer licensed under this section an elver dealer transaction card for each dealer license and for each supplemental license to record all sales, purchases and transportation of elvers. All transfers of elvers between any license type requires the use of an elver dealer transaction card, including all transactions between holders of elver dealer licenses and holders of elver dealer supplemental licenses. A person

licensed in accordance with this section must have access to an operational Internet connection when using an elver dealer transaction card to buy, sell or transport elvers.

[PL 2015, c. 45, §4 (NEW).]

8. Reporting. A dealer licensed under this section shall submit reports electronically to the department using an approved electronic format on a daily basis for the entire elver fishing season. The reporting period begins daily at 12:01 a.m. Eastern Standard Time and ends at 12:00 midnight. Reports must be received by the department by 2:00 p.m. of the following day, including the day following the last day of the season. If a correction is needed following the entry of a transaction, the dealer shall contact the department directly to request the correction. If an extension of time is needed, the dealer shall contact the department directly to request the extension.

[PL 2013, c. 468, §38 (RPR).]

8-A. Seizure of equipment. If a dealer licensed under this section fails to report, or fails to report accurately, and does not contact the department to request an extension of time or to correct information in accordance with subsection 8, a marine patrol officer may seize any recording equipment issued by the department under subsection 7-A. A marine patrol officer may also seize any department-issued equipment if an extension is requested but is not granted.

[PL 2013, c. 468, §39 (NEW).]

9. Authorized representatives. A person who holds an elver dealer's license may identify authorized representatives to act on the license holder's behalf to purchase elvers at the permanent facility. The elver dealer's license holder must identify authorized representatives on forms provided by the department.

[PL 2015, c. 45, §5 (AMD).]

10. Purchase of elvers. Until May 31, 2014, a person who holds an elver dealer's license, or the authorized representative of that person under subsection 9, may purchase elvers from licensed harvesters at locations other than the permanent facility identified on the license holder's license. Beginning in 2015, a person who holds an elver dealer's license or the license holder's authorized representative may purchase elvers from licensed harvesters only at the permanent facility identified on the license holder's license. The license holder or the license holder's authorized representative shall keep records on forms supplied by the department that identify each harvester from which elvers were purchased and the amount of elvers purchased from each harvester and each dealer to whom elvers were sold and the amount of elvers sold to each dealer. At all times, the license holder or the license holder's authorized representative must be able to fully account for the amount of elvers in the license holder's or the license holder's authorized representative's possession. On the request of a marine patrol officer, the license holder or the license holder's authorized representative shall weigh the amount of elvers in the license holder's or the license holder's authorized representative's possession for the purpose of determining if the amount of elvers meets the license holder's or the license holder's authorized representative's records. The license holder or the license holder's authorized representative shall make the records available for inspection by a marine patrol officer. If the license holder's or the license holder's authorized representative's records do not match the amount of elvers in the license holder's or the license holder's authorized representative's possession, the entire bulk pile is subject to seizure pursuant to section 6575-J. The license holder or the license holder's authorized representative may not purchase elvers with any form of payment other than a check or cashier's check that identifies both the seller and the buyer, each of whom must be a person holding a license issued under this section, a person who, pursuant to subsection 9, is an authorized representative of a person holding a license issued under this section or a person holding a license issued under section 6302-A, subsection 3, paragraph E, E-1, F or G or section 6505-A.

[PL 2013, c. 468, §40 (AMD).]

11. Shipment or transport of elvers outside state limits. A person who holds an elver dealer's license or the elver dealer's license holder's authorized representative under subsection 9 who is licensed

under section 6865, subsection 9 must transport elvers to a permanent facility identified on the license holder's license prior to the elvers being transported outside state limits.

[PL 2015, c. 45, §5 (AMD).]

12. Nonnegotiable checks.

[PL 2013, c. 301, §23 (RP).]

13. Record-keeping required. An elver dealer shall maintain paper records pertaining to all elver purchases and shipments. These records must be made available to the department upon request, and:

A. Each license holder must have a business address at which the records are maintained; [PL 2013, c. 468, §41 (NEW).]

B. The records must be complete, accurate and legible; [PL 2013, c. 468, §41 (NEW).]

C. The records must be sufficient to allow each purchase and shipment of elvers to be tracked by date of purchase from harvester, by harvester name and landings number and by buyer to whom the elvers were sold; and [PL 2013, c. 468, §41 (NEW).]

D. The records must be retained for a minimum of 3 years. [PL 2013, c. 468, §41 (NEW).]

[PL 2013, c. 468, §41 (NEW).]

A holder of an elver dealer's license when buying directly from a harvester may buy only from a harvester who possesses an elver fishing license under section 6505-A. The harvester shall make the elver fishing license and a government-issued identification card with the harvester's photograph and date of birth available for inspection upon the elver dealer's license holder's request. [PL 2013, c. 49, §19 (AMD).]

The commissioner may adopt rules to implement and enforce requirements under this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 549, §9 (NEW).]

SECTION HISTORY

PL 1995, c. 536, §A10 (NEW). PL 1995, c. 536, §A13 (AFF). PL 1999, c. 7, §15 (AMD). PL 2001, c. 421, §§B62,63 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 20, §WW27 (AMD). PL 2003, c. 170, §5 (AMD). PL 2005, c. 533, §4 (AMD). PL 2009, c. 213, Pt. G, §§44, 45 (AMD). PL 2009, c. 478, §5 (AMD). PL 2011, c. 549, §9 (AMD). PL 2013, c. 49, §§16-19 (AMD). PL 2013, c. 301, §§20-23 (AMD). PL 2013, c. 468, §§36-41 (AMD). PL 2013, c. 492, §15 (AMD). PL 2015, c. 45, §§1-5 (AMD). PL 2017, c. 284, Pt. EEEEE, §§29, 30 (AMD).

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