

§457. Refusal, suspension, revocation of license

1. Acts enumerated. The commissioner or the commissioner's duly authorized agent may refuse to grant a license, after notice and opportunity for a hearing is provided in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, upon a finding that any of the following acts have occurred:

A. That fraudulent charges or returns have been made by the applicant or licensee for the handling, sale or storage of licensed commodities or for the rendering of any service in connection with the handling, sale or storage of licensed commodities; [PL 1981, c. 139 (NEW).]

B. That the applicant or licensee has failed or refused to render a true account of sales, or to make a settlement thereon, within the time and in the manner required by this subchapter or has failed to or refused to pay for licensed commodities purchased by the applicant or licensee within 30 days after acceptance of the licensed commodities; [PL 1981, c. 139 (NEW).]

C. That the applicant or licensee has knowingly made any false material statement as to the condition, quality or quantity of licensed commodities received, handled, sold, purchased or stored by the applicant or licensee; [RR 2021, c. 1, Pt. B, §74 (COR).]

D. That the applicant or licensee has knowingly made any substantial misrepresentation as to the condition of the market for licensed commodities; [PL 1981, c. 139 (NEW).]

E. That the applicant or licensee has defrauded or attempted to defraud a producer; [PL 1981, c. 139 (NEW).]

F. That the applicant or licensee to whom any consignment is made has reconsigned the consignment to another dealer, processor, broker or agent and has received, collected or charged by such means more than one commission for making the sale for the consignor without previously obtaining the written consent of the consignor; [PL 1981, c. 139 (NEW).]

G. That the applicant or licensee knowingly made any false material statements in the procurement of a license under this subchapter; [PL 1981, c. 139 (NEW).]

H. That the applicant or licensee has not accounted promptly and properly to the producer with regard to any claim settled or collected by the applicant or licensee for the producer; [RR 2021, c. 1, Pt. B, §74 (COR).]

I. That the applicant or licensee has failed or refused, upon demand, to permit the commissioner or the commissioner's agents to make the investigations, examinations or audits as provided in this subchapter or that the applicant or licensee has removed or sequestered any books, records or papers necessary to any such investigations, examinations or audits or has otherwise obstructed the same; [RR 2021, c. 1, Pt. B, §74 (COR).]

J. That the applicant or licensee has failed or refused to keep and maintain the records as required by this subchapter; or [PL 1981, c. 139 (NEW).]

K. That the applicant or licensee has committed any act or conduct with regard to the handling, sale or storage of licensed commodities, whether of the same or different character than specified in this subsection, that constitutes or demonstrates bad faith, incompetency, untrustworthiness or dishonest, fraudulent or improper dealings. [RR 2021, c. 1, Pt. B, §74 (COR).]
[RR 2021, c. 1, Pt. B, §74 (COR).]

2. District Court. The District Court may, in a manner consistent with the Maine Administrative Procedure Act, suspend or revoke a license upon finding that the licensee has committed any of the Acts enumerated in subsection 1.

Any order revoking or suspending a license may, within the discretion of the District Court, be made conditional upon the settlement, adjustment or satisfaction of the consequence of the violation or

violations as specified and the operation of such an order may be deferred for that purpose. Any order may contain provisions for its modification or dismissal upon presentation to the District Court of evidence that the matter of complaint has been settled, adjusted or withdrawn at any time before the order becomes final.

[PL 1981, c. 139 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

3. Notification of insufficient payment or nonpayment. Producers may notify the commissioner of insufficient payment or nonpayment for licensed commodities delivered to any agent, broker, dealer or processor in violation of subsection 1, paragraph B. In addition to any other remedies available under this subchapter:

A. The commissioner or the commissioner's agent, upon notification by a producer of insufficient payment or nonpayment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act, hold a hearing. The person accused of nonpayment, the respondent, shall provide the commissioner with a copy of the contract, if any, and all other materials and information necessary to enable the commissioner to carry out this section. Upon finding that the respondent has violated the contract or other obligation, express or implied, the commissioner shall require the respondent to post a bond sufficient to cover the debt owed to the producer or producers. Failure to post the bond must be considered a violation of this subchapter and each day failure continues must be considered a separate violation; [RR 2021, c. 1, Pt. B, §75 (COR).]

B. The commissioner may require the licensee, accused of or found after a hearing to be in default of payment to a producer, to submit a payment schedule to the commissioner. In the event that the schedule of payment proposed is not satisfactory to the commissioner, the commissioner may establish the schedule of payment; and [RR 2021, c. 1, Pt. B, §76 (COR).]

C. The commissioner may file a complaint with the District Court to compel the posting of a bond required under paragraph A and to suspend the license of any licensee who fails to conform to the payment schedule established in this subsection until the producer is paid the total claim to which the producer is entitled. Upon the filing of a complaint by the commissioner in the District Court, the licensee shall post a bond sufficient to cover the total claim on the date on which the complaint is filed. The bond required in a court proceeding may be waived by the District Court in the event that the bond required in paragraph A is valid and sufficient to cover the total claimed. Nothing in this subsection may be construed to prohibit a producer from seeking redress for insufficient payment or nonpayment from licensees in any court or in accordance with any other state and federal procedure established to obtain redress. [PL 1981, c. 139 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

[RR 2021, c. 1, Pt. B, §§75, 76 (COR).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §§74-76 (COR).

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