

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

S.P. 438 - L.D. 1233

An Act To Improve Enforcement of Maine's Marine Resources Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §6022, sub-§20 is enacted to read:

20. Sale of general merchandise. The commissioner may engage in the selling and marketing of general merchandise products when the express purpose is to accommodate public demand and generate supplemental funds for the Bureau of Marine Patrol.

A. The commissioner may create dedicated accounts for depositing money received from the sale of general merchandise products pursuant to this subsection.

B. Funds received by the commissioner from the sale of general merchandise products pursuant to this subsection must be deposited in a dedicated account to be used only to market, promote and increase public awareness of the Bureau of Marine Patrol and to recruit marine patrol officers.

Sec. 2. 12 MRSA §6210, sub-§2, as amended by PL 2013, c. 485, §1, is further amended to read:

2. Initiation and notice. If the Chief of the Bureau of Marine Patrol delivers to the commissioner a written statement under oath that the chief has probable cause to suspect that a violation of section 6575-K or section 6864, subsection 7-A has been committed, the commissioner shall immediately examine the statement and determine whether to conduct an adjudicatory proceeding for the purpose of imposing an administrative penalty under this section. If the commissioner determines that the imposition of a penalty is necessary, the commissioner shall immediately notify the person who is alleged to have violated the law in accordance with Title 5, section 9052. The notice must state that the person may request a hearing in writing within 10 days of the notice. The notice is deemed received 3 days after the mailing.

Sec. 3. 12 MRSA §6210, sub-§7 is enacted to read:

7. Renewal of licenses. If a holder of a license issued under section 6302-A, 6505-A or 6864 fails to make payment of a pecuniary gain penalty assessed under this section, the

commissioner may refuse to renew that holder's license until the holder complies with the payment requirements.

Sec. 4. 12 MRSA §6374, sub-§1, as enacted by PL 2011, c. 311, §4, is amended to read:

1. Initiation and notice. If the Chief of the Bureau of Marine Patrol delivers to the commissioner a written statement under oath that the chief has probable cause to suspect that a violation of marine resources law has been committed, the commissioner shall immediately examine the affidavit and determine if a suspension is necessary. If the commissioner determines based on a preponderance of the evidence that a suspension is necessary, the commissioner shall immediately notify in writing the person who violated the law. The notice must state that there is an opportunity for a hearing, if the person requests the hearing in writing within 10 days of the notice. The notice is deemed received 3 days after the mailing.

Sec. 5. 12 MRSA §6374, sub-§2, as amended by PL 2011, c. 598, §20, is further amended to read:

2. Hearing. A hearing requested under subsection 1 must be held within 30 business days after receipt by the commissioner of a request for hearing except that a hearing may be held more than 30 business days after the request if the delay is requested by the person requesting the hearing. If the hearing is continued, it must be held no later than 60 days after the original notice, and any further continuance must be with the consent of both parties. The hearing must be held in accordance with the Maine Administrative Procedure Act, except that:

A. Notwithstanding Title 5, section 9057, issues of the hearing are limited to whether the person requesting the hearing had a license and whether that person committed a violation of marine resources law; and

B. Notwithstanding Title 5, section 9061, the decision of the presiding officer under Title 5, section 9062 must be made not more than 10 business days after completion of the hearing.

Sec. 6. 12 MRSA §6404, as amended by PL 2007, c. 201, §3, is further amended to read:

§6404. Revocation based on conviction of scrubbing lobsters

The commissioner shall ~~suspend~~ revoke 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.~~

Sec. 7. 12 MRSA §6412, sub-§3, as amended by PL 2013, c. 468, §13, is further amended to read:

3. Process for suspension for failing to comply with monthly reporting. If the commissioner determines that a person who holds a license or certificate under this Part has failed to comply with a monthly reporting requirement established by rule pursuant to section 6173, the commissioner shall notify the person ~~at the telephone number provided on the application for the license or certificate and by e-mail if an e-mail address is provided on the application~~ by mailing the notice to the person at the last known address provided in the department's marine resources licensing and enforcement database, or by serving the notice in hand. If the license or certificate holder has not complied with the reporting requirements within 45 days after the commissioner has provided the notice, the commissioner shall mail a notice of suspension to the license or certificate holder. The notice is deemed received 3 days after the mailing. The notice must:

- A. Describe the information that the license or certificate holder is required to provide pursuant to this Part that the department has not received; and
- B. State that, unless all the information described in paragraph A is provided to the department or the license or certificate holder requests a hearing, the license or certificate will be suspended in 3 business days after the license or certificate holder's receipt of the notice.

If the license or certificate holder has not complied with the reporting requirements or requested a hearing within 3 business days after receipt of the notice, the commissioner shall suspend the license or certificate.