

131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1525

H.P. 980

House of Representatives, April 5, 2023

An Act to Provide for Administrative Suspension of Licenses and Certificates Issued Under the Inland Fisheries and Wildlife Laws

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative LANDRY of Farmington. Cosponsored by Senator BLACK of Franklin and Representative: DILL of Old Town.

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 12 MRSA c. 907, sub-c. 5 is enacted to read:
3	<u>SUBCHAPTER 5</u>
4	ADMINISTRATIVE SUSPENSION
5	§10621. Administrative suspension without criminal conviction or civil adjudication
6 7	The commissioner may suspend a license or certificate issued under this Part for a violation of the inland fisheries and wildlife laws.
8 9 10 11 12 13 14 15 16 17 18	1. Initiation and notice. If the Game Warden Colonel delivers to the commissioner a written statement under oath that the Game Warden Colonel has probable cause to suspect that a violation of the inland fisheries and wildlife laws 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 or engaged in the conduct. 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. The commissioner may suspend the license or certificate of a person who has been notified pursuant to this subsection but who does not request a hearing within the allowed time.
19 20 21 22 23 24 25	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:
26 27 28	A. Notwithstanding Title 5, section 9057, issues of the hearing are limited to whether the person requesting the hearing had a license or certificate and whether that person committed a violation of the inland fisheries and wildlife laws; and
29 30 31	<u>B.</u> Notwithstanding Title 5, section 9061, the decision of the presiding officer under <u>Title 5, section 9062 must be made not more than 10 business days after completion of the hearing.</u>
32 33 34	If the presiding officer of the hearing finds that a violation of the inland fisheries and wildlife laws has been committed, the presiding officer shall immediately notify the commissioner of the finding.
35 36 37 38 39 40	3. Finding of violation and suspension. The commissioner may suspend the license or certificate of the person requesting the hearing under subsection 2 if the presiding officer of the hearing finds that a violation of the inland fisheries and wildlife laws has been committed. The commissioner may suspend any license or certificate for a period of time not to exceed the maximum amount of time allowable for a criminal conviction or civil adjudication of the same violation.

<u>4. Prohibition against multiple suspensions.</u> If the commissioner suspends a license
or certificate under this section, the commissioner may not suspend the license or certificate
because of a criminal conviction or civil adjudication for the same violation.

4 5. Appeal. A decision of the commissioner to suspend a license or certificate pursuant
5 to this section may be appealed to the Superior Court if it is filed with the court within 30
6 days of the decision.

6. Request for hearing on suspension length; place of hearing. The license or
certificate holder may request a hearing regarding the length of suspension under this
section. A hearing must be requested in writing within 10 days from the effective date of
the suspension. The hearing must be held within 10 days of the request unless a longer
period of time is mutually agreed to in writing. The hearing must be conducted in the
Augusta area.

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SUMMARY

14This bill creates an administrative license suspension process for the Department of15Inland Fisheries and Wildlife similar to what exists for the Department of Marine16Resources.

17 The process allows the Commissioner of Inland Fisheries and Wildlife to determine if 18 license suspension is necessary without criminal conviction or civil adjudication upon 19 recommendation of the Game Warden Colonel when a violation of inland fisheries and 20 wildlife laws has been committed. This determination is to be based on a preponderance of 21 the evidence.

The commissioner must notify the individual in writing of the pending suspension and include instructions for requesting a hearing. If requested, a hearing must be held within 30 days of the commissioner receiving the request, except if a delay is requested by the individual, in which case the hearing must be held no later than 60 days from receiving the request, except by mutual agreement between the individual and the commissioner.

The commissioner may suspend any license or certificate for a period of time not to exceed the maximum amount of time allowable for a criminal conviction or civil adjudication of the same violation. A decision of the commissioner to suspend a license or certificate pursuant to this section may be appealed to the Superior Court within 30 days of the decision. If the commissioner suspends a license under this section, the commissioner may not suspend or extend the suspension of the license because of a criminal conviction or civil adjudication for the same violation.