

§6374. Procedure for suspending without criminal conviction or civil adjudication

The procedure for suspending a license or certificate under section 6371, subsection 3 is governed by this section. [PL 2023, c. 207, §10 (AMD).]

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 or conduct described in section 6371, subsection 3 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. [PL 2023, c. 207, §11 (AMD).]

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, the issues of the hearing are limited to whether the person requesting the hearing committed a violation of marine resources law or conduct described in section 6371, subsection 3; and [PL 2023, c. 207, §12 (AMD).]

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. [PL 2011, c. 311, §4 (NEW).]

If the presiding officer of the hearing finds that a violation of marine resources law or conduct described in section 6371, subsection 3 has been committed, the presiding officer shall immediately notify the commissioner of the finding. [PL 2023, c. 207, §12 (AMD).]

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 marine resources law or conduct described in section 6371, subsection 3 has been committed. Except as provided in this subsection and subsection 3-A, the length of the suspension of the license or certificate may not exceed:

A. One year from the date of a first finding of a violation or finding that conduct described in section 6371, subsection 3 has been committed; [PL 2023, c. 207, §13 (AMD).]

B. Two years from the date of a 2nd finding of a violation or finding that conduct described in section 6371, subsection 3 has been committed; or [PL 2023, c. 207, §13 (AMD).]

C. Three years from the date of a 3rd or subsequent finding of a violation or finding that conduct described in section 6371, subsection 3 has been committed. [PL 2023, c. 207, §13 (AMD).]

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.

[PL 2023, c. 207, §13 (AMD).]

3-A. Finding of violation and suspension; specific violations. The length of a suspension of a license or certificate under this section for the following violations or conduct is:

A. Not less than 2 years and not more than 6 years from the date of a first finding of a violation, not less than 2 years and not more than 10 years from the date of a 2nd violation and permanent for a 3rd violation of section 6434; [PL 2017, c. 197, §4 (NEW).]

B. Not less than 3 years and not more than 10 years from the date of a first finding of a violation and permanent for a 2nd violation of section 6431-F, subsection 4; [PL 2017, c. 197, §4 (NEW).]

C. Not less than 3 years and not more than 10 years from the date of a first finding of a violation and permanent for a 2nd violation of section 6432, subsection 2, paragraph B; [PL 2017, c. 197, §4 (NEW).]

D. Not less than 4 years from the date of a finding of a violation of section 6438-A; [PL 2019, c. 163, §2 (AMD).]

E. Permanent for conduct that is grounds for suspension under section 6371, subsection 3, paragraph C; and [PL 2019, c. 163, §2 (AMD).]

F. Permanent for a first finding of a violation of section 6505-A, subsection 1-D. [PL 2019, c. 163, §3 (NEW).]

[PL 2019, c. 163, §§2, 3 (AMD).]

4. Prohibition against multiple suspensions. 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.

[PL 2011, c. 311, §4 (NEW).]

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

[PL 2011, c. 311, §4 (NEW).]

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.

[PL 2011, c. 311, §4 (NEW).]

7. Vessel monitoring following suspension or revocation. The commissioner may require a person whose lobster and crab fishing license was suspended or revoked pursuant to subsection 3-A or section 6402, 6402-D, 6402-E or 6404 or section 6371, subsection 3, paragraph C to install equipment that allows the department to track the geographic location of the vessel listed on that person's lobster and crab fishing license for a period immediately following the reinstatement of the license not to exceed the duration of the license suspension. Costs associated with equipment required to be installed under this subsection must be paid by the license holder.

[PL 2017, c. 197, §4 (NEW).]

SECTION HISTORY

PL 2011, c. 311, §4 (NEW). PL 2011, c. 598, §20 (AMD). PL 2013, c. 468, §10 (AMD). PL 2015, c. 172, §§4, 5 (AMD). PL 2017, c. 197, §4 (AMD). PL 2019, c. 163, §§2, 3 (AMD). PL 2023, c. 207, §§10-13 (AMD).

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