

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1211

H.P. 836

House of Representatives, March 26, 2009

An Act To Amend the Marine Resources Suspension Laws

Submitted by the Department of Marine Resources pursuant to Joint Rule 204.
Reference to the Committee on Marine Resources suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WEAVER of York.

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

2 **Sec. 1. 12 MRSA §6352**, as amended by PL 1991, c. 390, §3, is repealed and the
3 following enacted in its place:

4 **§6352. Notice**

5 The commissioner shall give notice of a suspension or a revocation and may give an
6 opportunity for a hearing to the holder in the case of a suspension.

7 **1. Time of notice.** Notice must be given within 60 days of the conviction or
8 adjudication pursuant to section 6351 and must be mailed to the last known address as
9 provided in the department's marine resources licensing and enforcement database or be
10 served in hand.

11 **2. Nature of notice.** The notice must contain:

12 A. A statement of the conviction or adjudication pursuant to section 6351;

13 B. The reason and statutory grounds for the suspension or revocation;

14 C. The effective date of the suspension or revocation; and

15 D. The opportunity for a hearing, should one exist.

16 **4. Receipt date.** The notice is deemed received 3 days after the mailing.

17 **5. Effective date of suspension or revocation.** A suspension or revocation is
18 effective on the date specified by the commissioner on the notice, which may not be less
19 than 10 days after the mailing of the notice of suspension or revocation by the
20 commissioner.

21 **Sec. 2. 12 MRSA §6353, sub-§1**, as enacted by PL 1977, c. 661, §5, is repealed
22 and the following enacted in its place:

23 **1. Request for hearing; place of hearing.** A hearing must be requested in writing
24 within 10 days from the effective date of the suspension. If requested, it must be held
25 within 10 days of the request unless a longer period of time is mutually agreed to in
26 writing. The hearing must be conducted in the Augusta area.

27 **Sec. 3. 12 MRSA §6353, sub-§2**, as enacted by PL 1977, c. 661, §5, is amended
28 to read:

29 **2. Evidence.** At the hearing, the holder or the department may present any evidence
30 concerning the violation which might justify reinstatement of his license or certificate, or
31 reduction of the suspension period.

32 **Sec. 4. 12 MRSA §6372, sub-§3, ¶A**, as enacted by PL 1977, c. 661, §5, is
33 amended to read:

34 A. Evidence, Title 5, section 9057, except the issues ~~shall be limited~~ are limited to
35 whether the licensee had a license and whether he ~~the licensee~~ refused inspection;

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Sec. 5. 12 MRSA §6402, as amended by PL 2007, c. 201, §1, is further amended to read:

§6402. Suspension based on adjudication of molesting

The commissioner shall suspend the lobster and crab fishing license of a license holder or the nonresident lobster and crab landing permit of a permit holder ~~convicted~~ adjudicated in court of violating section 6434. This suspension is for 3 years from the date of ~~conviction~~ adjudication.

1. Adjudications for cutting lobster trap lines. A person ~~convicted~~ adjudicated under section 6434 of molesting lobster gear by cutting a lobster trap line shall, upon making full payment as ordered by the court under section 6434, subsection 4, paragraph A, provide the commissioner with proof of that payment. If the commissioner does not receive that proof within 3 years after the date of ~~conviction~~ adjudication, the commissioner shall continue that license suspension until such time as that proof is received.

Sec. 6. 12 MRSA §6406, sub-§1, as amended by PL 1991, c. 302, §1 and affected by §2, is further amended to read:

1. Prohibited acts. It is unlawful for any person whose license or right to obtain a license is under suspension to:

- A. Engage in any licensed activity;
- B. Give another person permission to raise, lift, transfer or possess lobster traps or cars marked with the suspended person's lobster and crab fishing license number or lobster traps with buoys that carry the color design on file with the suspended license;
- C. Assist a holder of a Class II lobster and crab fishing license as a crew member; or
- E. For any violation occurring on or after the effective date of this paragraph, assist any license holder as a crew member in any activity authorized by the suspended license.

SUMMARY

This bill amends the laws governing the notice requirements for a suspension or revocation of a marine resources license. It amends the laws governing procedures for a hearing to appeal a suspension. It changes the reference to a violation of the laws against molesting lobster gear to refer to an adjudication rather than a conviction, since it is now a civil offense. It clarifies that an individual who has had the right to obtain a license suspended is subject to the same prohibitions as an individual who has had a license suspended.