

CHAPTER 625

WHOLESALE AND RETAIL LICENSES

§6851. Wholesale seafood license; wholesale seafood license with lobster permit; wholesale seafood license with urchin permit; wholesale seafood license with shrimp permit

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Wholesale seafood license; [PL 2003, c. 452, Pt. F, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental wholesale seafood license; or [PL 2003, c. 452, Pt. F, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Other license issued under this Part authorizing the activities. [PL 2003, c. 452, Pt. F, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. F, §26 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. License activities. The holder of a wholesale seafood license may, in the wholesale or retail trade:

A. Within or beyond the state limits, buy, sell, process, ship or transport any marine species or their parts, except lobsters and sea urchins; scallops purchased directly from harvesters; and shrimp purchased directly from harvesters; [PL 2015, c. 201, §5 (AMD).]

B. Within or beyond the state limits, buy, sell, shuck, pack, ship or, within the state limits, transport fresh or frozen shellfish, except lobsters, to the extent these activities are expressly authorized by a shellfish certificate issued under section 6856; [PL 2013, c. 492, §12 (AMD).]

C. [PL 1991, c. 523, §3 (RP).]

D. Buy, sell, process, ship or, within the state limits, transport crayfish; and [PL 2013, c. 492, §12 (AMD).]

E. Within or beyond the state limits, buy, possess, ship, transport or sell green crabs without a commercial green crab only license issued under section 6808. [PL 2013, c. 492, §12 (NEW).]

A holder of a wholesale seafood license when buying directly from a harvester may buy only from a harvester who possesses the license or permit for that species as required under this Part. The harvester shall make the applicable marine resources license or permit available for inspection upon the wholesale seafood license holder's request.

[PL 2015, c. 201, §5 (AMD).]

2-A. Wholesale seafood license with lobster permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a lobster permit. A person holding a wholesale seafood license with a lobster permit may engage in all the activities in subsection 2 and may buy, sell, process or ship lobster or properly licensed or lawfully imported lobster meat or parts. A person holding a wholesale seafood license with a lobster permit may transport lobster or properly licensed or lawfully imported lobster meat or parts anywhere within the state limits. A license under this subsection does not authorize a person to possess or transport lobster that person has taken unless that person is in possession of a license issued under section 6421, subsection 3-A, paragraph A, B, C or E. A license under this subsection does not authorize a person to remove lobster meat from the shell unless a license under section 6851-B or 6857 is held.

[PL 2019, c. 642, §8 (AMD).]

2-B. Wholesale seafood license with a sea urchin buyer's permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a sea urchin buyer's permit. A person holding a wholesale seafood license with a sea urchin buyer's permit may engage in all the activities in subsection 2 and may buy, sell, ship or transport whole sea urchins or sea urchin parts. A license under this subsection does not authorize a person to engage in the processing of sea urchins. [PL 2011, c. 266, Pt. A, §20 (AMD).]

2-C. Wholesale seafood license with a sea urchin processor's permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a sea urchin processor's permit. A person holding a wholesale seafood license with a sea urchin processor's permit may engage in all the activities in subsection 2 and may buy, sell, process, ship or transport whole sea urchins or sea urchin parts processed under that license. [PL 2011, c. 266, Pt. A, §20 (AMD).]

2-D. Wholesale seafood license with shrimp permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a shrimp permit. A person holding a wholesale seafood license with a shrimp permit may engage in all of the activities in subsection 2, may buy shrimp from harvesters and may sell, process, ship or transport shrimp. [PL 2011, c. 598, §42 (AMD).]

2-E. Wholesale seafood license with a scallop permit. At the request of the applicant, the commissioner shall issue a wholesale seafood license with a scallop permit. A person holding a wholesale seafood license with a scallop permit may engage in all of the activities in subsection 2, may buy scallops from harvesters and may sell, process, ship or transport scallops. [PL 2015, c. 201, §6 (NEW).]

3. Exceptions. This section does not apply to smoked herring or river herring. [PL 2011, c. 598, §43 (AMD).]

4. License limited. A license under this section authorizes activities at only one establishment or with only one vehicle, but not on a vessel rigged to fish, provided that this license also authorizes the sale and transportation of scallops from any vessel. The limitation in this subsection does not apply to holders of licenses issued under section 6421 when they are transporting lobsters on the vessel they have declared on their lobster license application. [PL 2005, c. 239, §9 (AMD).]

5. Supplemental license. A supplemental license must be obtained for each additional establishment or vehicle. [PL 1991, c. 523, §3 (AMD).]

6. Fees. The fees are as follows:

A. For a wholesale seafood license or a wholesale seafood license with a lobster permit, sea urchin buyer's permit, shrimp permit or sea urchin processor's permit, \$192.75; and [PL 2017, c. 284, Pt. EEEEE, §26 (AMD).]

B. For each supplemental license, \$38.25. [PL 2017, c. 284, Pt. EEEEE, §26 (AMD).]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged. [PL 2001, c. 421, Pt. B, §54 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 127, §87 (AMD). PL 1979, c. 590, §2 (AMD). PL 1981, c. 480, §§8,15,16 (AMD). PL 1983, c. 230 (AMD). PL 1983, c. 824, §K3 (AMD). PL 1985, c. 243 (AMD). PL 1985, c. 379, §6 (AMD). PL 1989, c. 348, §§8,9 (AMD). PL 1991, c. 523, §3

(AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §T14 (AMD). PL 1991, c. 591, §T14 (AMD). PL 1991, c. 784, §8 (AMD). PL 1993, c. 740, §§4,5 (AMD). PL 1997, c. 19, §§8,9 (AMD). PL 1999, c. 491, §6 (AMD). PL 1999, c. 491, §9 (AFF). PL 2001, c. 421, §§B53,54 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 20, §WW22 (AMD). PL 2003, c. 170, §4 (AMD). PL 2003, c. 452, §F26 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 239, §§8,9 (AMD). PL 2007, c. 615, §21 (AMD). PL 2009, c. 213, Pt. G, §36 (AMD). PL 2009, c. 478, §2 (AMD). PL 2009, c. 523, §8 (AMD). PL 2009, c. 561, §31 (AMD). PL 2011, c. 266, Pt. A, §20 (AMD). PL 2011, c. 598, §§41-43 (AMD). PL 2013, c. 492, §12 (AMD). PL 2015, c. 201, §§5, 6 (AMD). PL 2017, c. 284, Pt. EEEEE, §26 (AMD). PL 2019, c. 642, §8 (AMD).

§6851-A. Limited wholesale shellfish harvester's license

(REPEALED)

SECTION HISTORY

PL 2005, c. 508, §1 (NEW). PL 2009, c. 213, Pt. G, §37 (AMD). PL 2015, c. 68, §9 (RP).

§6851-B. Lobster processor license

1. License required. A person may not engage in the activities authorized under this section without a current wholesale seafood license with a lobster permit as required under section 6851 and a current lobster processor license.

[PL 2009, c. 523, §9 (NEW).]

2. Licensed activity. A lobster processor license authorizes a person to process lobsters and lobster meat for sale in accordance with rules adopted by the commissioner, including, but not limited to, the appropriate fee for the license, which may not exceed \$750, and under the following conditions:

A. The lobster and lobster meat may be processed only at the fixed place of business named on the license; [PL 2009, c. 523, §9 (NEW).]

B. The lobster meat or lobster parts may come from only legal-sized lobsters; [PL 2009, c. 523, §9 (NEW).]

C. All containers in which lobster meat is packed after removal and that are to be sold, shipped or transported must be clearly labeled with the lobster processor license number of the packer; [PL 2011, c. 247, §3 (AMD).]

D. Records must be maintained at the fixed place of business named on the license; and [PL 2011, c. 247, §4 (AMD).]

E. [PL 2011, c. 247, §5 (NEW); MRSA T. 12 §6851B, sub2, ¶E (RP).]

The commissioner may grant waivers for specific lobster products not addressed in rules that are produced by holders of lobster processor licenses. Such a waiver must be in writing and must describe in detail the product that is not specified in rule.

[PL 2011, c. 247, §§3-5 (AMD).]

3. Exception. A license is not required to remove lobster meat for serving in hotels and restaurants if the meat is removed from the shell in a hotel or restaurant for serving on the premises.

[PL 2009, c. 523, §9 (NEW).]

4. License limited. A lobster processor license authorizes activities under this section at only one fixed place of business.

[PL 2009, c. 523, §9 (NEW).]

5. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$1,000 may be adjudged.

[PL 2013, c. 468, §32 (AMD).]

SECTION HISTORY

PL 2009, c. 523, §9 (NEW). PL 2011, c. 247, §§3-5 (AMD). PL 2013, c. 468, §32 (AMD).

§6852. Retail seafood license

1. License required. A person may not engage in the activities authorized under subsection 2 without a retail seafood license or other license issued under this Part authorizing the activities.

[PL 2013, c. 468, §33 (AMD); PL 2013, c. 468, §46 (AFF).]

2. License activity. Except as provided in subsection 2-B, the holder of a retail seafood license may, in the retail trade, buy, sell, transport, ship or serve:

A. Shellstock, which must be purchased from a wholesale seafood license holder certified under section 6856; [PL 2013, c. 468, §34 (AMD); PL 2013, c. 468, §46 (AFF).]

B. [PL 2005, c. 434, §11 (RP).]

C. [PL 2011, c. 598, §44 (RP).]

D. Crayfish; [PL 2013, c. 468, §34 (AMD); PL 2013, c. 468, §46 (AFF).]

E. [PL 2013, c. 282, §11 (RP); PL 2013, c. 282, §12 (AFF).]

F. Lobsters; and [PL 2013, c. 468, §34 (NEW); PL 2013, c. 468, §46 (AFF).]

G. Any marine organism that is purchased directly from a harvester licensed under this Part. [PL 2013, c. 468, §34 (NEW); PL 2013, c. 468, §46 (AFF).]

A holder of a retail seafood license when buying directly from a harvester may buy only from a harvester who possesses the license or permit for that species as required under this Part. The harvester shall make the applicable marine resources license or permit available for inspection upon the retail seafood license holder's request.

[PL 2017, c. 146, §5 (AMD).]

2-A. Enhanced retail certificate authorized. The holder of a retail seafood license may obtain an enhanced retail certificate from the department. The holder of an enhanced retail certificate may, in the retail trade within the state limits, buy, sell, transport, ship or serve:

A. Shellstock bought from a commercial shellfish license holder licensed under section 6601; [PL 2011, c. 598, §44 (NEW).]

B. Shellstock bought from a surf clam boat license holder licensed under section 6602; [PL 2011, c. 598, §44 (NEW).]

C. Shellstock bought from a mahogany quahog license holder licensed under section 6731; [PL 2023, c. 207, §17 (AMD).]

D. Shellstock bought from a hand-raking mussel license holder licensed under section 6745 or a mussel boat license holder licensed under section 6746; and [PL 2023, c. 207, §18 (AMD).]

E. Shellstock bought from an aquaculture license holder licensed under section 6810-B. [PL 2023, c. 207, §19 (NEW).]

For the purposes of inspection or collection of samples, the commissioner or the commissioner's agent may access an establishment or part thereof in which activities authorized under this certificate are conducted by a person holding a retail seafood license. Denial of access is grounds for suspension or revocation of a retail seafood license under the provisions of section 6372. The holder of an enhanced retail certificate may not designate a vehicle as that person's establishment.

[PL 2023, c. 207, §§17-19 (AMD).]

2-B. Endorsements. The holder of a retail seafood license buying directly from a harvester must obtain an endorsement from the department for the species being bought if the license to harvest that

species requires the harvester to comply with an electronic reporting requirement. The department shall provide endorsements to license holders at no cost in accordance with rules adopted under subsection 6.

[PL 2017, c. 146, §6 (NEW).]

3. License limited. A license authorizes activities pursuant to subsection 2 at only one establishment or with only one vehicle.

[PL 2011, c. 598, §44 (AMD).]

3-A. Retail sale of certain seafood products.

[PL 2011, c. 598, §44 (RP).]

3-B. Certificate limited. An enhanced retail certificate authorizes activities pursuant to subsection 2-A at only one establishment.

[PL 2011, c. 598, §44 (NEW).]

4. Fee. The fee for a retail seafood license under subsection 1 is \$100. The fee for an enhanced retail certificate under subsection 2-A is \$100 and must be deposited in the Shellfish Fund under section 6651.

[PL 2017, c. 224, §1 (AMD); PL 2017, c. 224, §3 (AFF).]

5. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[PL 2001, c. 421, Pt. B, §56 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

6. Rules. The commissioner may adopt or amend rules that establish requirements for retail seafood license holders and enhanced retail certificate holders concerning:

A. The minimum sanitation standards for establishments and vehicles; [PL 2005, c. 434, §12 (NEW).]

B. The sanitation and quality control standards for shellfish and whole scallops and their products; [PL 2005, c. 434, §12 (NEW).]

C. The methods for handling, shipping and transporting of shellfish and whole scallops; [PL 2005, c. 434, §12 (NEW).]

D. The records and reports of purchases, shipping and transporting of shellfish and whole scallops; [PL 2005, c. 434, §12 (NEW).]

E. The labeling or marking of shipments of shellfish and wholesale scallops; [PL 2017, c. 146, §7 (AMD).]

F. The protection of public health; and [PL 2017, c. 146, §7 (AMD).]

G. Endorsements under subsection 2-B. [PL 2017, c. 146, §8 (NEW).]

Rules adopted pursuant to this subsection must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data and must be designed to protect the public health and safety while allowing reasonable use of shellfish and whole scallops. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2017, c. 146, §§7, 8 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1981, c. 480, §9 (AMD). PL 1983, c. 824, §K3 (AMD). PL 1985, c. 243 (AMD). PL 1985, c. 379, §7 (AMD). PL 1987, c. 826, §5 (AMD). PL 1989, c. 348, §§10,11 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §T15 (AMD). PL 1991, c. 591, §T15 (AMD). PL 2001, c. 421, §§B55,56 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003,

c. 20, §WW23 (AMD). PL 2005, c. 434, §§11,12 (AMD). PL 2009, c. 213, Pt. G, §38 (AMD). PL 2009, c. 478, §3 (AMD). PL 2009, c. 523, §§10, 11 (AMD). PL 2011, c. 598, §44 (AMD). PL 2013, c. 282, §11 (AMD). PL 2013, c. 282, §12 (AFF). PL 2013, c. 468, §§33, 34 (AMD). PL 2013, c. 468, §46 (AFF). PL 2013, c. 492, §13 (AMD). PL 2017, c. 146, §§5-8 (AMD). PL 2017, c. 224, §1 (AMD). PL 2017, c. 224, §3 (AFF). PL 2023, c. 207, §§17-19 (AMD).

§6852-A. Enhanced retail seafood license

(REPEALED)

SECTION HISTORY

PL 2009, c. 217, §6 (NEW). PL 2011, c. 311, §5 (AMD). PL 2011, c. 598, §45 (RP).

§6852-B. Retail sale of certain seafood products

Notwithstanding any provision of law to the contrary, a license or certificate is not required for a person to sell at retail: [PL 2011, c. 598, §46 (NEW).]

1. Shucked shellfish. Shucked shellfish, if the shucked shellfish is purchased from a wholesale seafood license holder certified under section 6856; or [PL 2011, c. 598, §46 (NEW).]

2. Lobster parts or meat. Lobster parts or meat, if they are purchased from a wholesale seafood license holder with a lobster permit, from the holder of a lobster processor license or from an individual permitted under section 6857 or if they have been lawfully imported. [PL 2011, c. 598, §46 (NEW).]

SECTION HISTORY

PL 2011, c. 598, §46 (NEW).

§6853. Marine worm dealer's license; green crab authorizations

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Marine worm dealer's license; [PL 2003, c. 452, Pt. F, §27 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental marine worm dealer's license; or [PL 2003, c. 452, Pt. F, §27 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Other license issued under this Part authorizing the activities. [PL 2003, c. 452, Pt. F, §27 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. F, §27 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Licensed activity. The holder of a marine worm dealer's license may buy, possess, ship, transport or sell marine worms. The holder of a marine worm dealer's license may also buy, possess, ship, transport or sell green crabs for a purpose other than for human consumption without a commercial green crab only license issued under section 6808. [PL 2013, c. 492, §14 (AMD).]

3. License limited. A license authorizes these activities at only one establishment or with only one vehicle. [PL 2001, c. 421, Pt. B, §57 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

4. Supplemental license. A supplemental license must be obtained for each additional establishment or vehicle. [PL 2001, c. 421, Pt. B, §57 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

5. Eligibility. The marine worm dealer's license is a resident license.

[PL 2001, c. 421, Pt. B, §57 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

6. License fee. The fee for a marine worm dealer's license is \$9 and the fee for a supplemental license is \$4.

[PL 2017, c. 284, Pt. EEEEE, §27 (AMD).]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[PL 2001, c. 421, Pt. B, §57 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

A holder of a license required under this section when buying marine worms directly from a harvester may buy only from a harvester who possesses a marine worm digger's license under section 6751, and when buying green crabs from a harvester may buy only from a harvester who possesses a commercial green crab only license issued under section 6808. The harvester shall make the marine worm digger's license or commercial green crab only license available for inspection upon the license holder's request. [PL 2013, c. 492, §14 (AMD).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1981, c. 480, §§10,15,16 (AMD). PL 1983, c. 824, §K3 (AMD). PL 1985, c. 243 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §T16 (AMD). PL 1991, c. 591, §T16 (AMD). PL 2001, c. 421, §B57 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 452, §F27 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2009, c. 213, Pt. G, §39 (AMD). PL 2009, c. 478, §4 (AMD). PL 2013, c. 492, §14 (AMD). PL 2017, c. 284, Pt. EEEEE, §27 (AMD).

§6854. Lobster transportation license

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Lobster transportation license; or [PL 2003, c. 452, Pt. F, §28 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental lobster transportation license. [PL 2003, c. 452, Pt. F, §28 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. F, §28 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. License activity. The holder of a lobster transportation license may buy from a licensed wholesale seafood dealer and transport beyond the state limits lobsters or their parts or meat. Lobster parts or meat may be transported only if they are properly permitted under section 6851-B or 6857 or have been lawfully imported.

[PL 2009, c. 523, §12 (AMD).]

3. License limitations. A license authorizes these activities with only one vehicle owned, leased or rented by the license holder.

[PL 2001, c. 421, Pt. B, §58 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

4. Supplemental license. A supplemental license must be obtained for each additional vehicle.

[PL 2001, c. 421, Pt. B, §58 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

5. Information required. Each application must identify each vehicle or other mode of transportation to be used for transporting lobster.

[PL 2001, c. 421, Pt. B, §58 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

6. Fees. The fee for a lobster transportation license is \$312 and the fee for a supplemental license is \$63.

[PL 2009, c. 213, Pt. G, §40 (AMD).]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[PL 2001, c. 421, Pt. B, §58 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 127, §88 (AMD). PL 1981, c. 480, §11 (AMD). PL 1983, c. 824, §K3 (AMD). PL 1985, c. 243 (AMD). PL 1985, c. 379, §8 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §T17 (AMD). PL 1991, c. 591, §T17 (AMD). PL 2001, c. 421, §B58 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 20, §WW24 (AMD). PL 2003, c. 452, §F28 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2009, c. 213, Pt. G, §40 (AMD). PL 2009, c. 523, §12 (AMD).

§6855. Shellfish transportation license

1. License required. A person may not engage in the activities authorized under this section without a current:

A. Shellfish transportation license; or [PL 2003, c. 452, Pt. F, §29 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Supplemental shellfish transportation license. [PL 2003, c. 452, Pt. F, §29 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. F, §29 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. License activity. The holder of a shellfish transportation license may buy certified shellfish and transport them beyond the state limits, to the extent these activities are expressly authorized by a shellfish certificate or its equivalent from another state.

[PL 1977, c. 661, §5 (NEW).]

3. License limitations. All shellfish transported under this license must be procured from a wholesale seafood licensee certified under section 6856. A license authorizes these activities with only one vehicle owned, leased or rented by the license holder.

[PL 2001, c. 421, Pt. B, §59 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

4. Supplemental license. A supplemental license must be obtained for each additional vehicle.

[PL 2001, c. 421, Pt. B, §59 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

5. Information required. Each application must identify each vehicle or other mode of transportation to be used for transporting shellfish.

[PL 2001, c. 421, Pt. B, §59 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

6. Fees. The fee for a shellfish transportation license is \$230 and the fee for a supplemental license is \$75.50.

[PL 2017, c. 284, Pt. EEEEE, §28 (AMD).]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[PL 2001, c. 421, Pt. B, §59 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1981, c. 480, §§12,15,16 (AMD). PL 1983, c. 824, §K3 (AMD). PL 1985, c. 243 (AMD). PL 1985, c. 379, §9 (AMD). PL 1987, c. 826, §6 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §T18 (AMD). PL 1991, c. 591, §T18 (AMD). PL 2001, c. 421, §B59 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 20, §WW25 (AMD). PL 2003, c. 452, §F29 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2009, c. 213, Pt. G, §41 (AMD). PL 2017, c. 284, Pt. EEEEE, §28 (AMD).

§6856. Shellfish sanitation; depuration certificate and permits

1. Shellfish sanitation certificate. A person may not undertake the processing, buying, selling, shipping, transporting or shucking of shellfish or whole scallops without a shellfish sanitation certificate issued by the department or a valid, current certificate issued by the relevant regulatory authority recognized by the United States Department of Health and Human Services, Food and Drug Administration and posted on the administration's interstate certified shellfish shippers list, unless authorized under section 6701 or 6702. A person may engage in activities only to the extent authorized by the certificate held by the person. The commissioner may issue a shellfish sanitation certificate to a wholesale seafood license holder or a shellfish transportation license holder that authorizes the holder to undertake the activities expressly authorized therein, which may include buying and selling, shipping, transporting, shucking or other processing of shellfish or whole scallops. A wholesale seafood license or shellfish transportation license is also necessary to undertake the activities authorized under those licenses. A shellfish sanitation certificate does not authorize a person to undertake any of the activities for which a permit is required pursuant to subsection 2-A. Beginning June 1, 2018, the fee for a shellfish sanitation certificate is \$50. [PL 2019, c. 334, §3 (AMD).]

2. Express authorizations. The commissioner shall expressly state the authorized activities on each shellfish sanitation certificate. The activities authorized must be sufficient to allow the holder to carry out the holder's wholesale or transportation operations, except that the operations may be limited to the extent required to protect the public health. [PL 2003, c. 248, §11 (AMD).]

2-A. Additional permits. A person may not engage in an activity for which a permit is required pursuant to this subsection unless the person holds a shellfish sanitation certificate and the applicable permit as provided in this subsection.

A. A person may not store shellfish in containers or tanks containing recirculating water without a recirculating wet storage permit. Beginning August 1, 2018, the fee for a recirculating wet storage permit is \$200, except that the fee for a recirculating wet storage permit is \$100 if the holder of the permit accepts as a permit condition the duty to provide and provides the department weekly test results showing the recirculating wet storage facility's compliance with the most recently adopted federal sanitation standards. [PL 2017, c. 224, §2 (NEW).]

B. A person may not store shellfish in containers or tanks where nonrecirculating water flows through the containers or tanks or in or on floats in a natural body of water without a flow-through wet storage permit. Beginning August 1, 2018, the fee for a flow-through wet storage permit is \$100. [PL 2017, c. 224, §2 (NEW).]

C. A person may not handle, ship, transport or process shellfish in bulk, as defined by the department by rule, without:

- (1) Attaching a tag to the shellfish in accordance with rules adopted by the department; and
- (2) A bulk tagging permit. Beginning June 1, 2018, the fee for a bulk tagging permit is \$50. [PL 2017, c. 224, §2 (NEW).]

D. A person may not use a vehicle to transport shellstock purchased at a location other than the establishment or vehicle authorized under the license without a shellfish buying station permit. Beginning June 1, 2018, the fee for a shellfish buying station permit is \$100. [PL 2019, c. 334, §4 (AMD).]
[PL 2019, c. 334, §4 (AMD).]

3. Depuration certificate. A person may not take shellfish from closed areas for depuration, processing and transportation without a depuration certificate. The commissioner may issue a depuration certificate to a wholesale seafood license holder that authorizes the holder to take shellfish from closed areas for depuration, processing and transportation. The certificate must establish limits on

harvesting, depurating and processing methods and any other provisions required to ensure the public safety. The commissioner may permit depuration of shellfish not contaminated by paralytic shellfish poisoning if it is established that the water used during depuration will not contaminate the shellfish with paralytic shellfish poisoning. Beginning May 1, 2018, the fee for a depuration certificate is \$200. [PL 2017, c. 224, §2 (AMD).]

3-A. Municipal consultation and approval; depuration harvesting.

[PL 2011, c. 175, §2 (RP).]

3-B. Municipal pollution abatement plan.

[PL 2011, c. 175, §3 (RP).]

3-C. Municipal depuration management plan.

[PL 2011, c. 175, §4 (RP).]

3-D. Soft-shelled clam depuration harvesting in municipalities with municipal shellfish conservation programs. Soft-shelled clam depuration activities conducted within a municipality that has a municipal shellfish conservation program pursuant to section 6671 are subject to the following provisions.

A. Using the following general guidelines to identify whether pollution abatement activities are likely to succeed in a shellfish growing area, the commissioner may close a shellfish growing area pursuant to section 6172 for municipal pollution abatement activities.

- (1) Pollution abatement activities are likely to succeed in shellfish growing areas affected by identified failing residential septic systems and other identified localized sources of human or animal fecal contamination when funding for abatement is available.
- (2) Pollution abatement activities are not likely to succeed in shellfish growing areas affected by wastewater treatment plant outfall or other point sources of treated or partially treated sewage unless complete removal of pollution sources has been achieved.
- (3) Abatement activities are not likely to succeed in shellfish growing areas affected by chronic nonpoint source contamination from rivers or streams.

At the request of the municipality, the commissioner may allow soft-shelled clam depuration harvesting in a shellfish growing area closed under this paragraph. [PL 2015, c. 68, §11 (AMD).]

B. In conducting depuration harvesting activities under this subsection, a person holding a depuration certificate shall engage commercial harvesters holding valid municipal and state commercial shellfish licenses. If there are insufficient municipally licensed commercial harvesters, the depuration certificate holder may supplement with other commercial shellfish harvesters licensed in the State. [PL 2011, c. 175, §5 (NEW).]

C. A depuration certificate holder shall maintain a generalized depuration management plan on file with the commissioner that sets forth methods for identifying harvest limits, operational procedures for harvest management and responsibilities of authorized representatives. [PL 2011, c. 175, §5 (NEW).]

D. A depuration certificate holder shall pay each municipality an amount equal to one dollar for each bushel of soft-shelled clams taken in that municipality under the depuration certificate. When submitting payment to a municipality under this paragraph, the depuration certificate holder shall include a summary of reports submitted to the department pursuant to rules adopted under subsection 4. [PL 2021, c. 59, §1 (AMD).]

[PL 2021, c. 59, §1 (AMD).]

4. Rules. The commissioner may adopt or amend rules concerning:

- A. The procedures for issuing certificates and the required qualifications for each type of certificate; [PL 1977, c. 661, §5 (NEW).]
- B. The minimum sanitation standards for establishments and vehicles; [PL 1977, c. 661, §5 (NEW).]
- C. The sanitation and quality control standards for shellfish and whole scallops and their products; [PL 2001, c. 112, §3 (AMD).]
- D. The methods for taking, handling, shipping, transporting and processing of shellfish and whole scallops taken from closed areas; [PL 2001, c. 112, §3 (AMD).]
- E. The records and reports of takings, purchases, processing, sales, shipping and transporting of shellfish and whole scallops; [PL 2001, c. 112, §3 (AMD).]
- F. The labeling or marking of shipments of shellfish and whole scallops; and [PL 2001, c. 112, §3 (AMD).]
- G. Other rules necessary to the public health. [PL 2003, c. 248, §11 (AMD).]

The rules must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data, in a manner so as to protect the public health and safety while allowing reasonable use of the State's shellfish and whole scallops.

[PL 2003, c. 248, §11 (AMD).]

5. Right of entry. Whenever a certificate has been issued under this section, the commissioner, or the commissioner's agent, must have access to any establishment or part thereof for the purpose of inspection or collection of samples. Denial of access is grounds for suspension or revocation of any certificate or license under the provisions of section 6372.

[PL 2011, c. 311, §6 (AMD).]

6. Products embargoed and condemned. The commissioner, or the commissioner's agent, shall indefinitely embargo, condemn or order to be destroyed any shellfish, shellfish product or whole scallop in any establishment whenever it is determined that the product is of unsound quality, contains any filthy, decomposed or putrid substance, or may be poisonous or deleterious to health or otherwise unsafe. The commissioner and the commissioner's agent shall cooperate with those state and federal agencies having similar responsibility in the protection of public health and in enforcing the order to embargo, condemn or destroy.

In the event that any shellfish, shellfish product or whole scallop in any establishment is embargoed, condemned or ordered destroyed, the commissioner, or the commissioner's agent, shall, as soon thereafter as practical, notify the owner in writing of the amount and kind of shellfish, shellfish product or whole scallop embargoed, condemned or destroyed.

[PL 2003, c. 248, §11 (AMD).]

7. Resident depuration harvesters.

[PL 2011, c. 175, §6 (RP).]

8. Payments to municipalities.

[PL 2011, c. 175, §7 (RP).]

9. Disposition of fees. The commissioner shall deposit fees collected under this section in the Shellfish Fund under section 6651.

[PL 2017, c. 224, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1979, c. 249 (AMD). PL 1981, c. 462, §6 (AMD). PL 1989, c. 770, §1 (AMD). PL 1991, c. 831, §2 (AMD). PL 2001, c. 112, §§2-4 (AMD). PL 2003, c. 248,

§11 (AMD). PL 2005, c. 508, §2 (AMD). PL 2007, c. 15, §§1-5 (AMD). PL 2007, c. 15, §6 (AFF). PL 2009, c. 561, §32 (AMD). PL 2011, c. 175, §§1-7 (AMD). PL 2011, c. 311, §6 (AMD). PL 2015, c. 68, §§10, 11 (AMD). PL 2017, c. 224, §2 (AMD). PL 2019, c. 334, §§3, 4 (AMD). PL 2021, c. 59, §1 (AMD).

§6857. Lobster meat permit

1. Permit required. A person may not engage in the activities authorized under this section without a current lobster meat permit.

[PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

2. Permitted activity. A lobster meat permit authorizes a wholesale seafood license holder or a retail seafood license holder to remove lobster meat from the shell for sale under the following conditions.

A. The meat may be removed from the shell only at the establishment named in the permit. [PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

B. The meat may come from only legal-sized lobsters. [PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

C. Tail sections must be removed from the shell whole and intact and must be maintained in that state. [PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

D. All containers in which lobster meat is packed after removal and that are to be sold, shipped or transported must be clearly labeled with the lobster meat permit number of the packer. [PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

[PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

3. Exception. A permit is not required to remove lobster meat for serving in hotels and restaurants if the meat is removed from the shell in a hotel or restaurant for serving on the premises.

[PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

4. License limitation. A permit authorizes these activities at only one location or place of business.

[PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

5. Fee. The fee for a lobster meat permit is \$159.

[PL 2009, c. 213, Pt. G, §42 (AMD).]

6. Prima facie evidence meat removed for sale. If any lobster meat that has been removed from the shell is found on the premises of any establishment that is engaged in the selling, serving, processing or transporting of food in any form for human consumption, it is prima facie evidence that the meat was removed for sale.

[PL 2001, c. 421, Pt. B, §60 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

7. Violation. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[PL 2001, c. 421, Pt. B, §60 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1981, c. 480, §§13,15,16 (AMD). PL 1983, c. 824, §K3 (AMD). PL 1985, c. 243 (AMD). PL 1985, c. 379, §10 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §T19 (AMD). PL 1991, c. 591, §T19 (AMD). PL 2001, c. 421, §B60 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 20, §WW26 (AMD). PL 2009, c. 213, Pt. G, §42 (AMD).

§6858. Size and condition of lobster meat

(REPEALED)

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1981, c. 433, §11 (AMD). PL 1985, c. 677, §§5-7 (AMD). PL 1987, c. 753, §1 (AMD). PL 1991, c. 390, §9 (AMD). PL 1999, c. 26, §4 (AMD). PL 2003, c. 452, §§F30,31 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2009, c. 523, §13 (RP).

§6859. Unmarked lobster shipping container

A person who ships, offers to ship or accepts for shipment any lobsters or their parts in any container that is not clearly marked to indicate that it contains lobsters commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged. [PL 1999, c. 771, Pt. B, §10 (AMD); PL 1999, c. 771, Pt. D, §§1,2 (AFF).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1999, c. 771, §B10 (AMD). PL 1999, c. 771, §§D1,2 (AFF).

§6860. Labeling of shrimp

A person who processes and packages shrimp without clearly marking the country or state of origin on the container commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged. [PL 1999, c. 771, Pt. B, §10 (AMD); PL 1999, c. 771, Pt. D, §§1,2 (AFF).]

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1999, c. 771, §B10 (AMD). PL 1999, c. 771, §§D1,2 (AFF).

§6861. Crawfish; license; meat; mix or commingle; listing

(REPEALED)

SECTION HISTORY

PL 1977, c. 661, §5 (NEW). PL 1985, c. 379, §11 (AMD). PL 1987, c. 513, §9 (AMD). PL 1989, c. 348, §12 (RP).

§6861-A. Permitted and prohibited activities for crayfish dealers

1. Meat. Crayfish meat is subject to the following prohibitions.

A. A person may not possess crayfish meat removed from the shell except as follows:

- (1) For immediate personal consumption;
- (2) For the purpose of serving the meat immediately to a customer;
- (3) Under refrigeration and in its original container, clearly labeled as crayfish, with the country or state of origin clearly disclosed; or
- (4) Mixed with other food if receipts are available to prove the product is crayfish. [PL 2003, c. 452, Pt. F, §32 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. It is prima facie evidence that lobster or crayfish meat is illegal lobster meat if the crayfish or lobster meat is outside the shell; is not in its original container and clearly labeled as crayfish, with the country or state of origin clearly disclosed; and:

- (2) Is unmixed with any other food and there are no receipts available to prove the product is crayfish. [PL 2009, c. 523, §14 (AMD).]

[PL 2009, c. 523, §14 (AMD).]

2. Mix or commingle. A person may not:

A. Mix or commingle crayfish in any form with lobster; [PL 2003, c. 452, Pt. F, §33 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Cause or allow crayfish to be mixed or commingled with lobster; or [PL 2003, c. 452, Pt. F, §33 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Possess a mixture of crayfish and lobster. [PL 2003, c. 452, Pt. F, §33 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. F, §33 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. List. It shall be unlawful to list, label, advertise, sell, offer for sale or represent, for the purpose of sale, crayfish as lobster or imitation lobster, unless the country or state of origin is clearly disclosed or the listing, labeling or advertising is designed to clearly and affirmatively reflect the product being offered for sale.

[PL 1989, c. 348, §13 (NEW).]

4. Records. Any person, licensed under section 6851 or 6852 who deals in crayfish, shall make records available to a marine patrol officer on demand.

[PL 1989, c. 348, §13 (NEW).]

5. Rules. The commissioner shall adopt or amend any rules necessary to supervise and control licensees dealing in crayfish and to protect the interests of the State in the conduct, management and operation of the business of dealing in crayfish to assure compliance with this section.

[PL 1989, c. 348, §13 (NEW).]

6. Penalties. The following penalties apply to violations of this section.

A. Violation of subsection 1, paragraph A is subject to the general penalty provisions of section 6201. [PL 2003, c. 452, Pt. F, §34 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Violation of subsection 1, paragraph B is subject to the penalty provisions of section 6431, subsection 7. [PL 2003, c. 452, Pt. F, §34 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Except as provided in paragraphs A and B, violation of this section is a civil violation for which a fine of not less than \$100 nor more than \$1,000 may be adjudged. [RR 2013, c. 2, §18 (COR).]
[RR 2013, c. 2, §18 (COR).]

7. License exception for bait purposes. A license shall not be required for crayfish kept or sold for bait purposes and marked or labeled "Not for Human Consumption."

[PL 1989, c. 348, §13 (NEW).]

SECTION HISTORY

PL 1989, c. 348, §13 (NEW). PL 2003, c. 452, §§F32-34 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2009, c. 523, §14 (AMD). PL 2013, c. 468, §35 (AMD). RR 2013, c. 2, §18 (COR).

§6862. Lobster tail permit

(REPEALED)

SECTION HISTORY

PL 1985, c. 129, §2 (NEW). PL 1985, c. 805 (REEN). PL 1987, c. 402, §A214 (REEN). PL 1987, c. 753, §2 (AMD). PL 1989, c. 788, §5 (AMD). RR 1991, c. 2, §38 (COR). PL 1997, c. 84, §1 (AMD). PL 2001, c. 421, §B61 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2005, c. 239, §10 (AMD). PL 2009, c. 523, §15 (RP).

§6863. Cultchless American oyster growers license

A person may not grow cultchless American oysters in the State unless licensed under this section, except that a person who is the holder of a lease issued under section 6072, 6072-A or 6072-B that authorizes the culture of American oysters or a license issued under section 6072-C that authorizes the culture of American oysters is not required to obtain a cultchless American oyster growers license. [PL 2013, c. 509, §10 (AMD).]

1. Definitions. For the purposes of this Part, the term "cultchless" means the absence, at the shell hinge, of foreign material or a scar and the term "American oyster" means the genus and species *Crassostrea virginica*.

[PL 1991, c. 876, §2 (NEW).]

2. License. The commissioner shall establish by rule the criteria for a cultchless American oyster growers license.

[PL 1991, c. 876, §2 (NEW).]

3. Fee. The annual fee for a cultchless American oyster growers license is \$12.

[PL 2009, c. 213, Pt. G, §43 (AMD).]

4. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 and not more than \$500 may be adjudged.

[PL 1999, c. 771, Pt. B, §11 (NEW); PL 1999, c. 771, Pt. D, §§1,2 (AFF).]

SECTION HISTORY

PL 1991, c. 876, §2 (NEW). PL 1999, c. 771, §B11 (AMD). PL 1999, c. 771, §§D1,2 (AFF). PL 2009, c. 213, Pt. G, §43 (AMD). PL 2013, c. 509, §10 (AMD).

§6864. Elver dealer's license

1. License required. A person may not buy, possess, transport within state limits or sell elvers without an elver dealer's license. It is unlawful for a person to possess elvers prior to the beginning of the elver season or to possess elvers 5 days beyond the end of the elver season pursuant to section 6575.

[PL 2015, c. 45, §1 (AMD).]

1-A. Limits on issuance. The department may not issue an elver dealer's license or a supplemental license after February 1st of the current licensing year.

[PL 2013, c. 492, §15 (AMD).]

2. License limited. An elver dealer's license authorizes the licensed activities at only one permanent facility. For the purposes of this section, "permanent facility" means a permanent building that is owned or legally leased by the license holder and is not a dwelling. A permanent facility must have holding tanks with water and aeration suitable to hold elvers.

[PL 2015, c. 45, §2 (AMD).]

3. Supplemental license. A supplemental license must be obtained for each vehicle or additional permanent facility. Beginning with the 2015 elver fishing season, a supplemental license authorizes a person to buy elvers from a person licensed under subsection 1 at the permanent facility identified on that person's license or to possess, transport within state limits or sell elvers.

[PL 2015, c. 45, §3 (AMD).]

4. Fee. The fee for an elver dealer's license is \$376 and the fee for each supplemental license is \$52.

[PL 2017, c. 284, Pt. EEEEE, §29 (AMD).]

5. Surcharge fees. In addition to the license fees established in subsection 4, the commissioner shall assess a surcharge on each license issued under this section, which must be deposited in the Eel and Elver Management Fund established under section 6505-D, as follows:

A. For an elver dealer's license, \$837; and [PL 2017, c. 284, Pt. EEEEE, §30 (NEW).]

B. For a supplemental elver dealer's license, \$11. [PL 2017, c. 284, Pt. EEEEE, §30 (NEW).]
[PL 2017, c. 284, Pt. EEEEE, §30 (RPR).]

6. Reporting.

[PL 2003, c. 170, §5 (RP).]

7. Violation. A person who violates this section commits a Class D crime for which a fine of \$2,000 must be imposed, none of which may be suspended. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
[PL 2013, c. 49, §16 (AMD).]

7-A. Use of elver transaction card required. The department shall issue to a dealer licensed under this section an electronic recording device that records the information on an elver transaction card issued by the department under section 6505-A, subsection 1-C. A dealer licensed under this section shall record each purchase or transfer of elvers from a harvester by using that harvester's elver transaction card. A dealer may not purchase elvers from a harvester that does not present an elver transaction card.
[PL 2013, c. 468, §37 (NEW).]

7-B. Use of elver dealer transaction card required. The department shall issue to a dealer licensed under this section an elver dealer transaction card for each dealer license and for each supplemental license to record all sales, purchases and transportation of elvers. All transfers of elvers between any license type requires the use of an elver dealer transaction card, including all transactions between holders of elver dealer licenses and holders of elver dealer supplemental licenses. A person licensed in accordance with this section must have access to an operational Internet connection when using an elver dealer transaction card to buy, sell or transport elvers.
[PL 2015, c. 45, §4 (NEW).]

8. Reporting. A dealer licensed under this section shall submit reports electronically to the department using an approved electronic format on a daily basis for the entire elver fishing season. The reporting period begins daily at 12:01 a.m. Eastern Standard Time and ends at 12:00 midnight. Reports must be received by the department by 2:00 p.m. of the following day, including the day following the last day of the season. If a correction is needed following the entry of a transaction, the dealer shall contact the department directly to request the correction. If an extension of time is needed, the dealer shall contact the department directly to request the extension.
[PL 2013, c. 468, §38 (RPR).]

8-A. Seizure of equipment. If a dealer licensed under this section fails to report, or fails to report accurately, and does not contact the department to request an extension of time or to correct information in accordance with subsection 8, a marine patrol officer may seize any recording equipment issued by the department under subsection 7-A. A marine patrol officer may also seize any department-issued equipment if an extension is requested but is not granted.
[PL 2013, c. 468, §39 (NEW).]

9. Authorized representatives. A person who holds an elver dealer's license may identify authorized representatives to act on the license holder's behalf to purchase elvers at the permanent facility. The elver dealer's license holder must identify authorized representatives on forms provided by the department.
[PL 2015, c. 45, §5 (AMD).]

10. Purchase of elvers. Until May 31, 2014, a person who holds an elver dealer's license, or the authorized representative of that person under subsection 9, may purchase elvers from licensed harvesters at locations other than the permanent facility identified on the license holder's license. Beginning in 2015, a person who holds an elver dealer's license or the license holder's authorized representative may purchase elvers from licensed harvesters only at the permanent facility identified on the license holder's license. The license holder or the license holder's authorized representative shall keep records on forms supplied by the department that identify each harvester from which elvers were purchased and the amount of elvers purchased from each harvester and each dealer to whom elvers were sold and the amount of elvers sold to each dealer. At all times, the license holder or the license holder's authorized representative must be able to fully account for the amount of elvers in the license

holder's or the licence holder's authorized representative's possession. On the request of a marine patrol officer, the license holder or the license holder's authorized representative shall weigh the amount of elvers in the license holder's or the licence holder's authorized representative's possession for the purpose of determining if the amount of elvers meets the license holder's or the license holder's authorized representative's records. The license holder or the license holder's authorized representative shall make the records available for inspection by a marine patrol officer. If the license holder's or the license holder's authorized representative's records do not match the amount of elvers in the license holder's or the license holder's authorized representative's possession, the entire bulk pile is subject to seizure pursuant to section 6575-J. The license holder or the license holder's authorized representative may not purchase elvers with any form of payment other than a check or cashier's check that identifies both the seller and the buyer, each of whom must be a person holding a license issued under this section, a person who, pursuant to subsection 9, is an authorized representative of a person holding a license issued under this section or a person holding a license issued under section 6302-A, subsection 3, paragraph E, E-1, F or G or section 6505-A.
[PL 2013, c. 468, §40 (AMD).]

11. Shipment or transport of elvers outside state limits. A person who holds an elver dealer's license or the elver dealer's license holder's authorized representative under subsection 9 who is licensed under section 6865, subsection 9 must transport elvers to a permanent facility identified on the license holder's license prior to the elvers being transported outside state limits.
[PL 2015, c. 45, §5 (AMD).]

12. Nonnegotiable checks.
[PL 2013, c. 301, §23 (RP).]

13. Record-keeping required. An elver dealer shall maintain paper records pertaining to all elver purchases and shipments. These records must be made available to the department upon request, and:

A. Each license holder must have a business address at which the records are maintained; [PL 2013, c. 468, §41 (NEW).]

B. The records must be complete, accurate and legible; [PL 2013, c. 468, §41 (NEW).]

C. The records must be sufficient to allow each purchase and shipment of elvers to be tracked by date of purchase from harvester, by harvester name and landings number and by buyer to whom the elvers were sold; and [PL 2013, c. 468, §41 (NEW).]

D. The records must be retained for a minimum of 3 years. [PL 2013, c. 468, §41 (NEW).]
[PL 2013, c. 468, §41 (NEW).]

A holder of an elver dealer's license when buying directly from a harvester may buy only from a harvester who possesses an elver fishing license under section 6505-A. The harvester shall make the elver fishing license and a government-issued identification card with the harvester's photograph and date of birth available for inspection upon the elver dealer's license holder's request. [PL 2013, c. 49, §19 (AMD).]

The commissioner may adopt rules to implement and enforce requirements under this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 549, §9 (NEW).]

SECTION HISTORY

PL 1995, c. 536, §A10 (NEW). PL 1995, c. 536, §A13 (AFF). PL 1999, c. 7, §15 (AMD). PL 2001, c. 421, §§B62,63 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 20, §WW27 (AMD). PL 2003, c. 170, §5 (AMD). PL 2005, c. 533, §4 (AMD). PL 2009, c. 213, Pt. G, §§44, 45 (AMD). PL 2009, c. 478, §5 (AMD). PL 2011, c. 549, §9 (AMD). PL 2013, c. 49, §§16-19

(AMD). PL 2013, c. 301, §§20-23 (AMD). PL 2013, c. 468, §§36-41 (AMD). PL 2013, c. 492, §15 (AMD). PL 2015, c. 45, §§1-5 (AMD). PL 2017, c. 284, Pt. EEEEE, §§29, 30 (AMD).

§6865. Elver exporter's license

1. License required. A person may not engage in the activities authorized under this section without an elver exporter's license.

[PL 2015, c. 45, §6 (NEW).]

2. License activities. A person who holds an elver exporter's license may buy elvers from a person licensed under section 6864 and transport elvers beyond the state limits.

[PL 2015, c. 45, §6 (NEW).]

3. License limited. An elver exporter's license authorizes the licensed activities on only one vehicle, owned, leased or rented by the license holder.

[PL 2015, c. 45, §6 (NEW).]

4. Use of transaction card required. The department shall issue to an exporter licensed under this section an electronic recording device that records the information on an elver dealer transaction card issued by the department under section 6864, subsection 7-B to record all sales and purchase transactions. A person licensed in accordance with this section may not buy or transfer elvers to or from another individual licensed in accordance with section 6864 without using an elver dealer transaction card. A person licensed in accordance with this section must have access to an operational Internet connection when using an elver dealer transaction card to buy or sell elvers.

[PL 2015, c. 45, §6 (NEW).]

5. Fees. The fee for an elver exporter's license is \$5,000. If the department requires inspection of elvers prior to export, the department may charge up to \$500 for each inspection.

[PL 2019, c. 163, §7 (AMD).]

6. Disposition of fees. All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D.

[PL 2015, c. 45, §6 (NEW).]

7. Violation. A person who violates this section commits a Class D crime for which a fine of \$2,000 must be imposed, none of which may be suspended. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[PL 2015, c. 45, §6 (NEW).]

8. Records. An exporter licensed under this section shall maintain records as specified by the commissioner in rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 45, §6 (NEW).]

9. Authorized representatives. A person who holds an elver exporter's license may identify authorized representatives to act on the license holder's behalf to transport elvers beyond state limits. The elver exporter's license holder must identify authorized representatives on forms provided by the department.

[PL 2015, c. 45, §6 (NEW).]

SECTION HISTORY

PL 2015, c. 45, §6 (NEW). PL 2019, c. 163, §7 (AMD).

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