

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

For the Years  
1967 through 1972

of 17 M.R.S.A. § 303 when the fair association has not been in existence for two years.

*OPINION:*

No.

*REASON FOR OPINION:*

Resolution of this question depends upon interpretation of the provisions in section 303 of Title 17 which pertain directly and indirectly to whether a fair association must be in existence for a definite time period prior to licensure. The Legislature in passing § 303 listed several classes of licensees permitted to hold such a license. Those classes are set forth in the first sentence of that section. While the 2 year existence requirement at least refers directly to veterans organizations, the language of the first sentence is unclear as to whether fair associations are included in the class or classes which must exist for 2 years prior to licensure. However, the second sentence of § 303 stating one exception to the 2 year existence limitation reads:

“Said 2 years’ limitation shall not apply to any chartered posts of veterans organizations, nationally established even though such posts have not been in existence for 2 years prior to their application for a license; *and* provided that a license may be issued to a fair association to operate such amusement in conjunction with its annual fair when sponsored, operated and conducted for the benefit of such fair association.” (Emphasis added)

Clearly, chartered posts of veterans organizations nationally established are not subject to the 2 year limitation. The use of the word *and* and then reference to (any) fair association sponsoring, operating and conducting Beano or Bingo at its annual fair merely spells out to the Chief of the State Police clear authority to issue a license for such an activity and does not remove the 2 year existence requirement.

Not specifically excepted, all classes of licensees with the exception of chartered posts of veterans organizations, nationally established, must exist for 2 years prior to licensure. Such classes are all mentioned in the first sentence of § 303 prior to language which expresses the 2 year existence requirement.

For these several reasons, the question posed is answered in the negative.

GARTH K. CHANDLER  
Assistant Attorney General

June 14, 1971  
Maine State Liquor Commission

Keith H. Ingraham, Chairman

Monthly Reports of Wholesalers

*SYLLABUS:*

Monthly sales reports to the Maine State Liquor Commission by Wholesalers of Malt Liquors and Wines are not “public record” within the meaning of 1 M.R.S.A. § 405.

*FACTS:*

The Maine State Liquor Commission receives a report each month from each Malt Liquor and Wine Wholesaler in the normal course of business which reflects the sales figures of that Wholesaler for the preceding month. The report is cross-checked in part with a report from each Brewer and is then filed. The report from each Brewer is then used in various operational activities, one being determining the Excise Tax owed to the State of Maine. However, the information on the report from the Brewers is identical in relevant part to that submitted to the Liquor Commission by the Malt Liquor and Wine Wholesalers.

*QUESTIONS:*

Is the information on the Reports received from the Wholesalers and the Brewers by the Liquor Commission a "public record" under the provisions of 1 M.R.S.A. § 401, et seq., such that other Wholesalers have access to the information?

*OPINION:*

No.

*REASON:*

The resolution of this question depends upon the intent of the Legislature with regard to the scope of that which is subject to public access under the provisions of 1 M.R.S.A. § 401, et. seq.

Section 405 of Title 1 permits, in addition to inspection of minutes of public proceedings, the inspection of "public records" including those minutes. Just what the Legislature intended to be considered "public record" in the case at hand must necessarily be resolved by the materiality of the records involved to the public proceedings of the Commission in its carrying out the function with which it is charged under Title 28. As the information which reflects the sales figures of the Wholesalers is not used in public proceedings which occur in the normal course of the Commission business, it is not open to public inspection under that section. As the use by the Commission is for administrative functions and not in "public proceedings" as defined by the statute, the information is not available to members of the public, including other Wholesalers, as a public record under § 401 et seq. of Title 1.

However, there being no other statutory language that such information is required to be kept confidential, the Commission may in its discretion withhold or make it available to individuals or groups as it sees fit.

GARTH K. CHANDLER  
Assistant Attorney General