

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

November 7, 1973

Keith H. Ingraham, Director

Bureau of Alcoholic Beverages

Eliot Field, Assistant

Attorney General

Status of Limited Partnerships as to application for licensure pursuant to Title 28, Section 201 M.R.S.A.

SYLLABUS:

Only an "executive officer" of a limited partnership (usually a general partner) or another person specifically authorized by the limited partnership to sign for the partnership needs to sign the liquor license application of a limited partnership, and the State Liquor Commission's recording of the names of all general and limited partners is not necessary at license application time. In the event of a transfer of an interest in the business (not partnership) in relation to which the license was issued, the Commission must receive a statement from the transferor of the interest which gives the names and addresses of the purchasers (transferees) or any other persons interested in the enterprise.

FACTS:

Limited partnerships with many limited partners (potentially 100 or more) may apply for liquor licenses for businesses owned by these partnerships. This has raised questions regarding the application of the statutory licensing provisions to such situations.

QUESTIONS:

- (1) The Bureau of Alcoholic Beverages has asked whether limited partners must sign an application for a liquor license from the State Liquor Commission when a limited partnership is the applicant.
- (2) Does 28 M.R.S.A. § 203 require the State Liquor Commission to record the names of all partners, general and limited, at license application time, in connection with the transfer of an interest in a licensed business?
- (3) What would the status of the limited partners be in the license privilege in the event of violations, such as revocation or liability?

Keith H. Ingraham, Director

November 7, 1973

(4) Is a limited partnership included within the definition of "person" (28 M.R.S.A. § 2, sub-§15) and therefore a person for purposes of Title 28?

ANSWERS:

(1) No, only an "executive officer" of the partnership or other person authorized by the partnership need sign the application.

(2) No, the Commission will be supplied the information necessary at the transfer time.

(3) This question, as written, does not involve the State's interests and therefore is not answered.

(4) Yes.

REASONS:

(1) 28 M.R.S.A. § 251 provides in part that:

"All applications shall be signed . . . in the case of a partnership by the partners thereof . . ."

A literal reading of § 251 would require that all partners, including limited, sign an application for a liquor license. However, it is likely that the Legislature wrote this partners-must-sign requirement at a time (1937) when most partnerships were small in size so that the signatures of all partners were easily obtained and fit on the application form. For instance, the Augusta City Clerk's records on partnerships formed between April, 1935, and the end of 1937 show that the largest partnership had four partners with most having two. Larger cities would probably have larger partnerships, but they would still be within reasonable limits at the most (10-20) with respect to obtaining signatures on the application.

For this reason, and since the structure of limited partnerships closely resembles that of corporations (i.e., general partners are analogous to directors, and limited partners are to shareholders),

Keith H. Ingraham

November 7, 1973

it would be more appropriate to apply the corporation signature requirements to large limited partnerships. These corporate requirements provide for only an "executive officer" or other authorized person to sign the license application so that if applied to limited partnerships, an analogous person's (probably a general partner's) signature would be sufficient. It seems somewhat irrational to distinguish between corporate shareholders and limited partners when the number of limited partners per partnership reaches into the tens and hundreds. In such cases, there seems to be no reason why limited partners must sign an application and shareholders not. In terms of knowing who has what interest in the limited partnership to which the license is issued, the filing laws put limited partnerships on a par with corporations. Corporate records list their shareholders and limited partnerships must file a certificate with the Secretary of State which gives the names and residences of all partners, and the contributions and shares of profits or compensation of limited partners (31 M.R.S.A. § 152). So, the purpose of having partners sign cannot be to insure disclosure of all ownership interests because these will be publicly filed at the creation of the partnership. All the above facts militate towards applying the corporate, as opposed to the general partnership, signing requirements of § 251 to limited partnerships.

(2) With regard to your second question, whether and when § 203 requires the recording of the names of all partners, general and limited, § 203 only applies where there has been a transfer of some interest in the business (not the partnership) in relation to which the license was issued. In the case of a transfer of the majority interest, the seller (transferor; which would be the partnership itself here) of the interest is required to return his license and give the names and addresses of the purchasers or others (e.g., those retaining a minority interest) having an interest in the enterprise. A minority interest transfer does not require a loss of the license, but rather an exchange for a new one, but the names of the parties acquiring a new interest in the business must still be made known to the Commission through the statement of the seller which is required on the sale of "any interest in the business."

Since we take the position above that limited partnerships and corporations are to be treated similarly, the last sentence of § 203 would also apply to limited partnerships. So if the sale of a partnership interest is one which "effects a change of control of the licensed premise," it would be considered a "transfer" of an interest in the business so that a new license must be issued at original cost and a seller's statement, describing the purchaser, must be given to the Commission. Thus, to answer question 2, with respect to limited partnerships, § 203 does not require the recording of the names of specific partners except in the seller's statement in the case just suggested.

EF/mf

---

Eliot Field  
Assistant Attorney General