

Transfer of License Act most frequently asked question:

- Q1. I want to transfer my license under the Act, when will the forms be available?
- Q2. What is the earliest date that I can submit a transfer application; when will the transfer be reviewed by the Commission?
- Q3. After the implementation of the Act, how long does it normally take for the issuance or transfer of a license?
- Q4. Does DABC conduct an investigation of license applications?
- Q5. When does the Act affect my retail license other than the direct sale of my business?
- Q6. What is an escrow agent?
- Q7. Is an escrow agent required?
- Q8. How do I determine who is qualified as an escrow agent.
- Q9. Does the Act affect relocating my retail license?
- Q10. I am only relocating my license across the street. Is there a fee required?
- Q11. Can a license be transferred from one person to another person without making an application to DABC?
- Q12. Does the filing of the transfer application accomplish the transfer of the license?
- Q13. Can a license be transferred to the transferee (buyer) if the buyer is not current with taxes, fees or other contributions resulting from operation of the retail license?
- Q14. Pending transfer of the license, may the intended transferee (buyer) operate the licensed business?
- Q15. Does the law allow pledging the transfer of a license as security for a loan or as security for the fulfillment of any agreement?
- Q16. If my transfer application is approved under the act, how soon do I need to be open for business?

Q1. I want to transfer my license under the Act, when will the forms be available?

A1. Forms will be available on the effective date of the Act, July 1, 2014

Q2. What is the earliest date that I can submit a transfer application; when will the transfer application be reviewed by the Commission?

A2. The earliest transfer applications can be considered is August 26, 2014. Complete applications must be submitted by the 10th of the month to be eligible for that month's agenda and Commission consideration. A notice of intended transfer must be submitted at least 10 days in advance of the transfer application; therefore, it is not possible to submit an application on July 10, 2014.

Q3. After the implementation of the Act, how long does it normally take for the issuance or transfer of a license?

A3. Most applications and investigations may take up to 55-65 days based upon the application. Circumstances, such as proximity hearings, may result in a longer waiting period; therefore, before final approval and transfer of a license, applicants are cautioned regarding extensive financial commitments and advertisement or commitments based upon the license transfer. If an extensive remodel or other new construction is necessary, the applicant should review the construction with the Compliance Department on a temporary closure.

Q4. Does DABC conduct an investigation of license applications?

A4. Yes. DABC conducts a thorough investigation, as required by law, to determine qualification of the applicant and the premises.

Q5. When does the Act affect my license other than the direct sale of my business?

A5. The Act affects many situations which require transfer of a retail license that include:

- Upon death of a licensee or principal owner, the surviving partners, executor, administrator or heirs;
- Upon named as a conservator or guardian for a person who owns a retail license;
- A retail license of a debtor in a bankruptcy or to the trustee of a bankrupt estate of a retail license;
- A retail license of a person for whose estate where a receiver is appointed may be transferred by or to a receiver of the estate of the retail licensee;
- A retail license of an assignor for the benefit of creditors by or to an assignee of creditors of a licensee with consent of the assignor;
- A retail license transferred to a revocable living trust if the retail licensee is the trustee of the revocable living trust;
- A retail license transferred between partners when no new partner is being licensed;
- A retail license transferred between corporations whose outstanding shares of stock are owned by the same individuals;

You should contact the Compliance Division on other situations to determine what action must be taken.

Q6. What is an escrow agent?

A6. Escrow agents are licensed by the State of Utah to receive and disburse money or documents for the primary transacting parties and where the disbursement is dependent on conditions agreed to by the transacting parties.

Q7. Is an escrow agent required?

A7. Yes. An escrow agent is required under the Act. An escrow agent is not required unless the transferee (buyer) guarantees full payment of creditors and files an audited financial statement with a net worth of \$5,000,000 or more.

Q8. How do I find a qualified escrow agent.

A8. A list of escrow agents is available from the Department of Financial Services. Department of Financial Services is located at 324 South State Street, Suite 201, Salt Lake City, Utah 84111; 801-538-8830.

Many financial institutions can provide this escrow services. These financial institutions must meet certain qualifications. Verification of eligibility must be confirmed prior to entering into an escrow contract.

Q9. Does the Act affect relocating my business?

A9. Yes. Relocating your retail license requires submission of a 'Change of Location' application. Relocating your business outside of the county in which the retail license was issued is prohibited. The new business premises must meet current application guidelines including storage and dispensing as well as proximity to community

locations. Commission approval must be received for the new location prior to storage, sales and consumption of alcoholic products.

Q10. I am only relocating my license across the street. Is there a fee required?

A10. Yes. A transfer fee is assessed equal to the renewal fee of the license transferred.

Q11. Can a license be transferred from one person to another person without making an application to DABC?

A11. No. A Notice of Intended Transfer application must be signed by both the transferor (seller - current licensee) and the transferee (buyer) and must be filed with DABC. The Notice must be received at least 10 days prior to filing the transfer application. The DABC Commission may deny the transfer if the transferee (buyer) is not qualified for a license. If such transfer also involves a change of the premises, DABC's approval of the new premises is required.

Q12. Does the filing of the application for transfer accomplish the transfer of the license?

A12. No. Neither the transferor (seller) nor the transferee (buyer) should assume that the license will be transferred on a particular date, or at all, merely because the application has been filed. DABC Commission may deny the application or delay the approval based upon elements of the application. The DABC Compliance Division is required to investigate the personal qualifications to hold a license; the premises of a currently licensed person when a license is being transferred and future locations to which a license is located.

Q13. Can a license be transferred to the transferee (buyer), if the buyer is not current with taxes, fees or other contributions resulting from operation of the retail license?

A13. No. The commission may not approve the transfer of a retail license if the transferee (buyer) is delinquent in the payment of any of the following that arises in full or in part out of the operation of a retail license:

- a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or
- an amount due under Title 35A, Chapter 4, Employment Security Act.

Q14. Pending transfer of the license, may the intended transferee (buyer) operate the licensed business?

A14. Yes but under only certain circumstances. The transferee (buyer) may operate the licensed premises during the transfer period if a management agreement has been submitted to and approved by the DABC. To qualify for this temporary operation, the transferor (seller) must maintain all qualifications to hold the license such as local licensing, insurance, bond and other requirements required by the DABC. Profits from the sale of alcohol must flow to the license holder (seller).

Q15. Does the law allow pledging the transfer of a license as security for a loan or as security for the fulfillment of any agreement?

A15. No. The law prohibits a licensee from pledging the license as security for a loan or as security for the fulfillment of any agreement. In their transfer application both transferor and transferee must state under oath that the transfer is not being made (a) to satisfy the payment of a loan or to fulfill an agreement entered into 90 days before the transfer application is filed, (b) to gain or establish a preference to or for any creditor of

the transferor, (c) to defraud or injure any creditor of the transferor. (see 32B-8A-501). Further 32B-8A-201 states a person may not sell, transfer, assign, exchange, barter, give or attempt in any way to dispose of the retail license to another person whether for monetary gain or not.

Q16. If my transfer application is approved under the act, how soon do I need to be open for business?

A16. When a license transfer is approved by the Commission, the transferee (buyer) must begin retail operations within 30 days of the approval. A single 30 day extension may be granted by the department through a written request outlining the extended closure and expected date to open. Failure to begin operations within the prescribed periods, the license is automatically forfeited