

TRANSFERRING THE DABC LICENSE

when NO money or assets are paid for the license
i.e. probate and wills, gift to family members, bankruptcy etc.

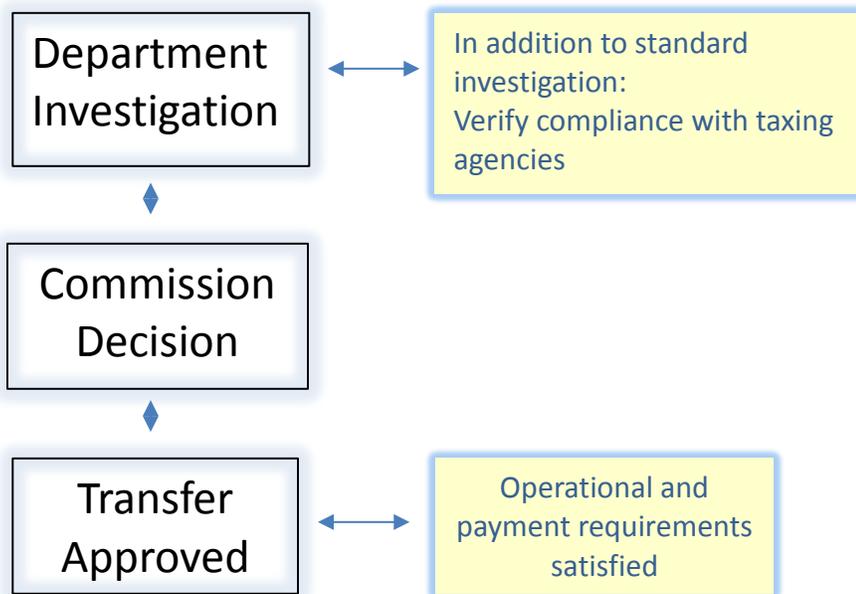


Applicants are encouraged to contact the department at 801-977-6800 prior to beginning this process.

Step 1

Submit a completed
“Transfer of a Retail License Application”

- Follow the checklist carefully to ensure your application IS complete.
- Provide the purchase agreement to verify escrow/guaranty requirements are not required.
- Provide proof that the business is in compliance with taxing agencies.



Transferring a retail license among family members, guardians, partners (when there is no new partner) trustee or corporations where NO CONSIDERTION is paid for the DABC license:

To transfer a retail license **when no consideration (cash, checks, or other items of value)** is transferred to the seller of the license for the following:

- parent or adult child of a retail licensee,
- married spouses – from one spouse to the other spouse,
- a deceased licensee to one or more surviving partners, executor, administrator or conservator of the estate, or the surviving spouse,
- an Incompetent person to the guardian,
- a debtor in a bankruptcy case to the trustee,
- from the receiver of an estate to a new receiver of the estate, or to a living trust,
- between partners when no new partner is being licensed
- between corporations owned by the same individuals

The transfer fee in this case is **ONE-HALF of the initial license fee** for the type of retail license that is being transferred. The \$300.00 non-refundable application fee also still applies.

Full Service Restaurant	\$1,100	License fee	+	\$300	Total	=	\$1,400.00
Limited Service Restaurant	\$637.50	License fee	+	\$300	Total	=	\$ 937.50
Beer-only Restaurant	\$412.50	License fee	+	\$300	Total	=	\$ 712.50
Club	\$1,375	License fee	+	\$300	Total	=	\$1,675.00
Tavern	\$ 750	License fee	+	\$300	Total	=	\$1,800.00
Banquet Catering	\$ 375	License fee	+	\$300	Total	=	\$ 675.00
Reception Center	\$ 375	License fee	+	\$300	Total	=	\$ 675.00
Airport Lounge	\$4,000	License fee	+	\$300	Total	=	\$4,300.00

JUST THE FACTS – TRANSFER OF LICENSE ACT:

32B-8a-102. Definitions.

As used in this chapter:

- (1) "Business entity" means a corporation, partnership, limited liability company, sole proprietorship, or similar entity.
- (2) "Transfer fee" means a fee described in Section [32B-8a-303](#).
- (3) "Transferee" means a person who intends to hold a retail license after the transfer of the retail license if the transfer is approved by the commission under this chapter.
- (4) "Transferor" means a retail licensee who intends to transfer a retail license held by the retail licensee if the transfer is approved by the commission under this chapter.

32B-8a-201. Transferability of retail license.

- (1)
 - (a) A retail license is separate from other property of a retail licensee.
 - (b) Notwithstanding Subsection [\(1\)\(a\)](#), the Legislature may terminate or modify the existence of any type of retail license.
 - (c) Except as provided in this chapter, a person may not:
 - (i) transfer a retail license from one location to another location; or
 - (ii) 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.
 - (d) If approved by the commission and subject to the requirements of this chapter, a retail licensee may transfer a retail license:
 - (i) from the retail licensee to another person, regardless of whether it is for the same premises; and
 - (ii) from one premises of the retail licensee to another premises of the retail licensee.
- (2)
 - (a) The commission may not approve the transfer of a retail license that results in a transferee holding a different type of retail license than is held by the transferor.
 - (b) The commission may not approve the transfer of a retail license from one location to another location, if the location of the premises to which the retail license would be transferred is in a different county than the location of the licensed premises of the retail license being transferred.
- (3) The commission may not approve the transfer of a retail license if the transferee:
 - (a) is not eligible to hold the same type of retail license as the retail license to be transferred at the premises to which the retail license would be transferred; or
 - (b) 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:
 - (i) a tax, fee, or charge due under this title or [Title 59, Revenue and Taxation](#); or
 - (ii) an amount due under [Title 35A, Chapter 4, Employment Security Act](#).
- (4) This chapter does not apply to a:
 - (a) master full-service restaurant license; or
 - (b) master limited-service restaurant license.

32B-8a-202. Effect of transfer of ownership of business entity.

- (a) When the ownership of 51% or more of the shares of stock of a corporation is acquired by or transferred to one or more persons who did not hold the ownership of 51% of those shares of stock on the date a retail license is issued to the corporation, the corporation shall comply with this chapter to transfer the retail license to the corporation as if the corporation is newly constituted.
 - (b) When there is a new general partner or when the ownership of 51% or more of the capital or profits of a limited partnership is acquired by or transferred to one or more persons as general or limited partners and who did not hold ownership of 51% or more of the capital or profits of the limited partnership on the date a retail license is issued to the limited partnership, the limited partnership shall comply with this chapter to transfer the retail license to the limited partnership as if the limited partnership is newly constituted.
 - (c) When the ownership of 51% or more of the interests in a limited liability company is acquired by or transferred to one or more persons as members who did not hold ownership of 51% or more of the interests in the limited liability company on the date a retail license is issued to the limited liability company, the limited liability company shall comply with this chapter to transfer the retail license to the limited liability company as if the limited liability company is newly constituted.
- (2) If a business entity fails to comply with this section within 30 days of the day on which the event described in Subsection [\(1\)](#) occurs, the business entity's retail license is automatically forfeited.

32B-8a-203. Operational requirements for transferee.

- (1) (a) A transferee shall begin operations of the retail license within 30 days from the day on which a transfer is approved by the commission, except that:
- (i) the department may grant an extension of this time period not to exceed 30 days; and
 - (ii) after the extension is authorized by the department under Subsection [\(1\)\(a\)\(i\)](#), the commission may grant one or more additional extensions not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee can demonstrate to the commission that the transferee:
 - (A) cannot begin operations because the transferee is improving the licensed premises;
 - (B) has obtained a building permit for the improvements described in Subsection [\(1\)\(a\)\(ii\)\(A\)](#); and
 - (C) is working expeditiously to complete the improvements to the licensed premises.
- (b) A transferee is considered to have begun operations of the retail license if the transferee:
- (i) has a licensed premises that is open to the public;
 - (ii) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed premises described in Subsection [\(1\)\(b\)\(i\)](#); and
 - (iii) has a valid business license.
- (2) If a transferee fails to begin operations of the retail license within the time period required by Subsection [\(1\)](#), the following are automatically forfeited effective immediately:
- (a) the retail license; and
 - (b) the retail license fee.
- (3) A transferee shall begin operations of the retail license at the location to which the transfer applies before the transferee may seek a transfer of the retail license to a different location.
- (4) Notwithstanding Subsection [\(1\)](#), the commission may not issue a conditional license unless the requirements of Section [32B-5-205](#) are met, except that the time periods required by this section supersede the time period provided in Section [32B-5-205](#).

32B-8a-302. Application -- Approval process.

- (1) To obtain the transfer of a retail license from a retail licensee, the transferee shall file a transfer application with the department that includes:
 - (a) an application in the form provided by the department;
 - (b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment for transfer of the retail license;
 - (c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section [32B-8a-401](#) is deposited with the escrow holder; and
 - (d)
 - (i) an application fee of \$300; and
 - (ii) a transfer fee determined in accordance with Section [32B-8a-303](#).
- (2) If the intended transfer of a retail license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section [63F-1-701](#) that states the following:
 - (a) the name of the transferor;
 - (b) the name and address of the business currently associated with the retail license;
 - (c) instructions for filing a claim with the escrow holder; and
 - (d) the projected date that the commission may consider the transfer application.
- (3)
 - (a)
 - (i) Before the commission may approve the transfer of a retail license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the retail license should be approved.
 - (ii) The department shall forward the information and recommendations described in this Subsection [\(3\)\(a\)](#) to the commission to aid in the commission's determination.
 - (b) Before approving a transfer, the commission shall:
 - (i) determine that the transferee filed a complete application;
 - (ii) determine that the transferee is eligible to hold the type of retail license that is to be transferred at the premises to which the retail license would be transferred;
 - (iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection [32B-8a-201\(3\)](#);
 - (iv) determine that the transferee is not disqualified under Section [32B-1-304](#);
 - (v) consider the locality within which the proposed licensed premises is located, including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;
 - (vi) consider the transferee's ability to manage and operate the retail license to be transferred, including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;
 - (vii) consider the nature or type of retail licensee operation of the transferee, including the factors listed in Section [32B-5-203](#) for the issuance of a retail license;
 - (viii) if the transfer involves consideration, determine that the transferee and transferor have complied with [Part 4, Protection of Creditors](#); and
 - (ix) consider any other factor the commission considers necessary.
- (4)
 - (a) Except as provided in Subsection [\(4\)\(b\)](#), the commission may not approve the transfer of a retail license to premises that do not meet the proximity requirements of Section [32B-1-202](#).
 - (b) If after a transfer of a retail license the transferee operates the same type of retail license at the same location as did the transferor, the commission may waive or vary the proximity requirements of

Subsection [32B-1-202\(2\)](#) in considering whether to approve the transfer under the same circumstances that the commission may waive or vary the proximity requirements in accordance with Subsection [32B-1-202\(4\)](#) when considering whether to issue a retail license.

32B-8a-303. Transfer fees.

- (1) Except as otherwise provided in this section, the department shall charge the following transfer fees:
 - (a) for a transfer of a retail license from a retail licensee to another person, the transfer fee equals the initial license fee amount specified in the relevant part under [Chapter 6, Specific Retail License Act](#), for the type of retail license that is being transferred;
 - (b) for the transfer of a retail license from one premises to another premises of the same retail licensee, the transfer fee equals the renewal fee amount specified in the relevant part under [Chapter 6, Specific Retail License Act](#), for the type of retail license that is being transferred;
 - (c) subject to Subsections [\(1\)\(d\)](#) and [\(2\)](#), for a transfer described in Section [32B-8a-202](#), the transfer fee equals the renewal fee amount specified in the relevant part under [Chapter 6, Specific Retail License Act](#), for the type of retail license that is being transferred;
 - (d) for a transfer of a retail license to include the parent or adult child of a retail licensee, when no consideration is given for the transfer, the transfer fee is one-half of the amount described in Subsection [\(1\)\(a\)](#); and
 - (e) for one of the following transfers, the transfer fee is one-half of the amount described in Subsection [\(1\)\(a\)](#):
 - (i) a retail license of one spouse to the other spouse when the transfer application is made before the entry of a final decree of divorce;
 - (ii) a retail license of a deceased retail licensee to:
 - (A) the one or more surviving partners of the deceased retail licensee;
 - (B) the executor, administrator, or conservator of the estate of the deceased retail licensee; or
 - (C) the surviving spouse of the deceased retail licensee, if the deceased retail licensee leaves no estate to be administered;
 - (iii) a retail license of an incompetent person or conservatee by or to the conservator or guardian for the incompetent person or conservatee who is the retail licensee;
 - (iv) a retail license of a debtor in a bankruptcy case by or to the trustee of a bankrupt estate of the retail licensee;
 - (v) a retail license of a person for whose estate a receiver is appointed may be transferred by or to a receiver of the estate of the retail licensee;
 - (vi) a retail license of an assignor for the benefit of creditors by or to an assignee for the benefit of creditors of a licensee with the consent of the assignor;
 - (vii) a retail license transferred to a revocable living trust if the retail licensee is the trustee of the revocable living trust;
 - (viii) a retail license transferred between partners when no new partner is being licensed;
 - (ix) a retail license transferred between corporations whose outstanding shares of stock are owned by the same individuals;
 - (x) upon compliance with Section [32B-8a-202](#), a retail license to a corporation whose entire stock is owned by:
 - (A) the transferor; or
 - (B) the spouse of the transferor;

- (xi) upon compliance with Section [32B-8a-202](#), a retail license to a limited liability company whose entire membership consists of:
 - (A) the transferor; or
 - (B) the spouse of the transferor; or
 - (xii) a retail license transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation.
- (2) If there are multiple and simultaneous transfers of retail licenses under Section [32B-8a-202](#), a transfer fee described in Subsection [\(1\)\(c\)](#) is required for only one of the retail licenses being transferred.
- (3) (a) Except as provided in Subsection [\(3\)\(b\)](#), a transfer fee required under Subsection [\(1\)](#) is due for a transfer subsequent to a transfer under Subsection [\(1\)\(e\)\(xii\)](#) if the subsequent transfer is of 51% of the stock in a corporation to which a retail license is transferred by a retail licensee or the spouse of a retail licensee.
- (b) If the transfer of stock described in Subsection [\(3\)\(a\)](#) is from a parent to the parent's adult child or adult grandchild, the transfer fee is one-half of the amount described in Subsection [\(1\)\(a\)](#).
- (4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.

32B-8a-404. When escrow not required.

- (1) Notwithstanding the other provisions of this part, an escrow is not required to be established in connection with the transfer of a retail license if:
- (a) a business entity files with the department a guaranty of full, prompt, and faithful payment of all claims of a creditor of the retail licensee; and
 - (b) the guaranty described in Subsection [\(1\)\(a\)](#) is accepted in writing by the creditors listed in Subsection [32B-8a-401\(2\)](#).
- (2) A transfer of a retail license described in Subsection [\(1\)](#) is not considered complete until:
- (a) the guarantor pays all creditors' claims in full; and
 - (b) the guarantor files with the department a statement executed under penalty of perjury that all conditions of the transfer have been satisfied.
- (3) Payment of a claim by a guarantor shall be made in United States currency or by certified check in a manner acceptable to the creditors.
- (4) This section applies only in the case of a transfer in which the guarantor business entity has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than \$5,000,000.

32B-8a-501. License not to be pledged as security -- Prohibited transfers.

- (1) A retail licensee may not enter into any agreement under which the retail licensee pledges the retail license as security for a loan or as security for the fulfillment of any agreement.
- (2) A retail licensee may not transfer a retail license if the transfer is to:
- (a) satisfy a loan or to fulfill an agreement entered into more than 90 days preceding the date on which the transfer application is filed;
 - (b) gain or establish a preference to or for any creditor of the transferor, except as provided by Section [32B-8a-202](#); or
 - (c) defraud or injure a creditor of the transferor.
- (3) A retail licensee may not transfer a retail license except in accordance with this chapter.