

SMALL OWNERSHIP CHANGES

Less than 51% of an existing entity

32B-5-310, 32B-7-405, 32B-10-207, 32B-11-209, 32b-11-609, 32B-12-302, 32b-13-302, 32B-17-302, 32B-1-305,

QUESTION:

What if your business wants to keep the entity that holds the license, but you want to make some small ownership changes within the entity, what do you need to do?



ANSWER:

If the business entity that holds the DABC license, such as an LLC, corporation, partnership, etc. is changing ownership, but the change is less than 51 percent, then these types of changes do not need to be approved by the commission. They can be done quite simply and done internally with your DABC compliance officer.

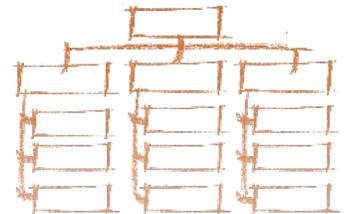
Some examples of less than 51% changes are:

- A corporation owned by a husband and wife at 50/50 percent. The husband dies and the wife takes over at 100%. This is only a 50% change and can be done internally.
- An LLC is owned 50% by George, 25% by Alice, and 25% by Jon. Jon sells his portion to Alice. Alice now has 50% ownership. This is only a 25 percent change of ownership and no DABC commission approval is necessary.
- A Limited partnership with Tom, Mary, and Vivian all at 33.33% was split up when Tom left. His portion went to Mary. This means that although Mary now has 66.66% ownership, only 33.33% has changed and can be handled internally with the DABC.

If it is determined with your compliance officer that any change is less than 51%, this is what you need to do:

Update and provide copies of the following documents:

1. Complete a list of ownership information and what percentage each person now owns.
 - a. The list must be of individuals and not just entities.
 - b. For complex parent companies, provide an organizational chart.



2. Obtain background checks for:
 - a. any new officers, directors, owners, and managers who have at least 20 % ownership; or
 - b. anyone who has direct decision-making control over the day-to-day operations of the business.
2. Update your entity documents with the Department of Commerce and provide copies to DABC
3. Business license:
 - a. Contact the local jurisdiction and see if they need a new business license.
 - b. If they do, DABC needs a copy.

References: 32B-1-305 Requirement for a background check.(1) The department shall require an individual listed in Subsection (2), in accordance with this part, to:(a) provide a signed waiver from the individual whose fingerprints may be registered in the Federal Bureau of Investigation Rap Back system that notifies the signee:(i) that a criminal history background check will be conducted;(ii) who will see the information; and(iii) how the information will be used;(b) submit to a background check in a form acceptable to the department; and Utah Code Page 28(c) consent to a background check by:(i) the Utah Bureau of Criminal Identification; and(ii) the Federal Bureau of Investigation.(2) The following shall comply with Subsection (1):(a) an individual applying for employment with the department if:(i) the department makes the decision to offer the individual employment with the department;and(ii) once employed, the individual will receive benefits;(b) an individual applying to the commission to operate a package agency;(c) an individual applying to the commission for a license, unless the license is an off-premise beer retailer state license;(d) an individual who with regard to an entity that is applying to the commission to operate a package agency or for a license is:(i) a partner;(ii) a managing agent;(iii) a manager;(iv) an officer;(v) a director;(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of a corporation;(vii) a member who owns at least 20% of a limited liability company; or(viii) an individual employed to act in a supervisory or managerial capacity; or(e) an individual who becomes involved with an entity that operates a package agency or holds a license, if the individual is in a capacity listed in Subsection (2)(d) on or after the day on which the entity:(i) is approved to operate a package agency; or(ii) is licensed by the commission.(3)(a) Except as provided in Subsection (3)(b), the commission may not require an individual to comply with Subsection (1) based on the individual's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency or license.(b) The commission may require an individual described in Subsection (3)(a) to comply with Subsection (1) if the individual exercises direct decision making control over the day-to-day operations of the package agency or licensee.(4) The department shall require compliance with Subsection (2)(e) as a condition of an entity's:(a) continued operation of a package agency; or(b) renewal of a license.(5) The department may require as a condition of continued employment that a department employee:(a) submit to a background check in a form acceptable to the department; and(b) consent to a fingerprint criminal background check by:(i) the Utah Bureau of Criminal Identification; and(ii) the Federal Bureau of Investigation