

§1553. Transfer of licenses; death; bankruptcy; receivership; guardianship; corporations

Except as otherwise provided in this section, a license or any interest in a license may not be sold, transferred, assigned or otherwise subjected to control by any person other than the licensee. If the business or any interest in the business connected with a licensed activity is sold, transferred or assigned, the license holder shall send immediately to the department the license and a sworn statement showing the name and address of the purchaser. [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

1. Transfer within same municipality. Upon receipt of a written application, the department may transfer any retail tobacco license from one place to another within the same municipality. A transfer may not be made to a premises for which a license could not have been originally legally issued. [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

2. Death, bankruptcy or receivership. In the case of death, bankruptcy or receivership of any licensee, the executor or administrator of the deceased licensee, the trustee or receiver of the bankrupt licensee or the licensee in receivership may retain the license.

A. For the benefit of the estate of the deceased licensee, the personal representative, receiver or trustee of the estate may operate the premises alone or through a manager for one year from the date of appointment.

- (1) A new license application must be submitted at the end of the one-year grace period.
- (2) Within one year from the date of appointment, the original license becomes void and must be returned to the department for cancellation.
- (3) Any suspension or revocation of the license by the District Court for any violation applies to the manager or the personal representative, receiver or trustee of the estate.
- (4) A personal representative, receiver or trustee of an estate or a duly appointed manager may not operate under the license unless approved by the department. [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

B. If a licensee dies, the following persons, with the written approval of the department, may continue to operate under the license for not more than 60 days pending appointment of a personal representative of the estate:

- (1) The surviving spouse;
- (2) A person who has filed a petition for appointment as executor or administrator for the estate of the deceased licensee;
- (3) The sole heir of the deceased licensee; or
- (4) A person designated by all of the heirs of the deceased licensee. [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

C. When administration of the estate of a deceased licensee is not contemplated, the surviving spouse or person designated by all the heirs of the deceased licensee may take over the license under the same conditions as are provided for operation and transfer by an executor or an administrator. [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]
[PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

3. Guardian; conservator. A duly appointed and qualified guardian or conservator of the estate of a licensee may take over and operate any license of the ward of the deceased licensee for a period

not to exceed one year if the guardian or conservator or the guardian or conservator's managers are approved by the department.

A. A guardian or conservator must apply for a new license on the ward's behalf within one year of the guardian's or conservator's appointment, if the guardian or conservator intends to continue to sell tobacco products. [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

B. Penalties for violations apply to both guardians or conservators and guardians' or conservators' managers in the same manner as to executors or administrators and guardians' or conservators' managers in subsection 2, paragraph A, subparagraph (3). [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

[PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

4. Transfers. The following changes in a licensee's business are considered transfers under this section:

A. The sale or transfer of stock of a corporate licensee whose stock is not publicly traded that results in the sale or transfer of more than 10% of the shares of stock of the corporate licensee; [PL 1995, c. 593, §1 (AMD).]

A-1. The sale or transfer of stock of a corporate licensee whose stock is publicly traded that results in the sale or transfer of more than 51% of the voting shares of the corporate licensee; [PL 1995, c. 593, §2 (NEW).]

B. The incorporation of a licensee's business or a change in the form of incorporation of a licensee's business; [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

C. The addition or deletion of a partner in a partnership; or [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

D. The merger or acquisition of a licensee that is incorporated. [PL 1995, c. 470, §9 (NEW); PL 1995, c. 470, §19 (AFF).]

[PL 1995, c. 593, §§1, 2 (AMD).]

SECTION HISTORY

PL 1995, c. 470, §9 (NEW). PL 1995, c. 470, §19 (AFF). PL 1995, c. 593, §§1,2 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

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