

MONTANA TAVERN TIMES

Amended License Applications - January 1, 2013

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With a new year comes many changes. If any of those changes involve your gambling operator license, this article will be a good reminder for what is required by statute and rule to make certain changes.

According to 23-5-118, MCA, “an owner of an interest in a licensed gambling operation shall notify the department in writing and receive approval from the department before transferring any ownership interest in the operation.” The key to remaining in compliance with this statute is receiving *prior approval* for any ownership interest transfers.

If the requested change involves a transfer of interest among existing licensees, the department has established a shortened application (Form 37) to process these requests. Gambling activity may continue pending the outcome of a license investigation for the proposed transfer of ownership. But, money may not change hands and final paperwork may not be completed on the transfer until the application is approved. The Form 37 is currently being updated, but the approved version is always made available on our website at www.doj.mt.gov/gaming/forms. There is no processing fee associated with this application.

There are other changes in which a Form 37 must be submitted. The full list includes:

- Change of Location (Manufacturer/Distributor/Route Operator **only**)
- Death of a Licensee
- Divorce among Licensees
- Foreclosure (with certain restrictions)
- Gifting among Licensees
- Sale among Licensees

Transfers under any of the above circumstances must be to a person already disclosed in a liquor only or combined application owning at least 10% of the license. An ownership interest in a licensed gambling and/or liquor operation may not be transferred to a stranger to the license (someone not already listed and approved as an owner) unless a new Alcoholic Beverage/Gambling Operator Combined License Application (Form 5) reflecting the proposed transfer is sent to and approved by the divisions.

Disclosing joint tenancy with right of survivorship (JTROS) agreements, personal representatives, powers of attorney, etc. as agreements are made can simplify and speed up the licensing process when events such as death of a licensee do occur.

There is an exception in statute that only affects a small number of licensees. Prior approval is not needed for the transfer of security interest in a licensed gambling operation or for the transfer of less than 5% of the interest in a *publicly traded* corporation.

In proposed transfer situations where an owner that holds less than 10% of the license is going to increase their ownership to more than 10% of the license, a different short application is required (Form 39). There are other reasons for completing a Form 39 as well. The full list includes:

- Change in Business Entity Type (e.g. sole proprietor to corporation)
- Change of Liquor License Type
- Change of Location (Gambling Operator/Liquor Licensee **only**)
- Increase of ownership interest from less than 10% ownership to more than 10% ownership

Form 39 is in the final stages of review and will be available on our website at www.doj.mt.gov/gaming/forms in the near future. As with the Form 37, an ownership interest in a licensed gambling and/or liquor operation may not be transferred to a stranger to the license (someone not already list and approved as a owner in the licensed operation) unless a new Alcoholic Beverage/Gambling Operator Combined License Application (Form 5) reflecting the proposed transfer is sent to and approved by the divisions.

The documents that are required to supplement the applications are included in the instructions on the form.

For more information, please call our office at (406) 444-1971 or email gcd@mt.gov.
(References: 23-5-118, MCA; 23.16.116-117 and 23.16.125-127, ARM)