



Before you transfer that HHG authority ...

Before any new owner or management legally can begin operating the authority, the permission of the Illinois Commerce Commission is required. This is true of partnerships, sole proprietorships, and corporations (stock transfers). **BEFORE a controlling interest of the company changes hands, even to a family member, the Ill.C.C. must give prior approval.** Unauthorized transfer of the control of a company can result in revocation of the authority and/or civil penalties to both the buyer and the seller.

A soon-to-be new owner may work as an employee or manager **for the existing owner** until the final transfer has been completed. **Be cautious** -- until the authority is officially transferred via the Illinois Commerce Commission, **the existing owner remains responsible for everything** about the company, regardless of who may be "managing." This includes damage claims, assessing proper tariff charges, advertising -- the existing owner is responsible for all aspects of the company and can be held accountable and fined for any violations.

Don't waste your money. Be sure the authority being transferred is an active authority and used to its full extent. Authorities dormant longer than about 1 year may not be transferred, nor will any *portion* of the authority that has not been used. The Ill.C.C. can and will limit the territory of the authority.

Don't waste your money, Part II. It is strongly suggested that a contractual agreement, covering all aspects of any management arrangement and including the eventual sale, be drawn up by a qualified **transportation** attorney. It's important not to rely on "Cousin Billy Bob the Lawyer" for this important transaction. Transportation law, and specifically actions before the Ill.C.C., are unique. You don't want to pay "Billy Bob" to learn how to do it on your time. It's been our experience that a majority of corporation lawyers don't know the process either; and *several of our members have faced unnecessary inconvenience and expense because of faulty advice by an uninformed corporation attorney.* To avoid delays and unnecessary, costly mistakes, call a qualified, experienced transportation attorney.

Once the buyer and seller have reached a purchase agreement, it's time to take the transfer application to the Illinois Commerce Commission. *At this time, the existing owner still has complete responsibility for any actions taken with the authority.* To avoid revocation of the authority before it can be transferred, **remember to**

keep all filings current with the Ill.C.C., including insurance, tariffs, franchise fees, and annual reports. The purchaser and seller may wish to make the pertinent fees a part of the purchase agreement.

File an application to transfer the authority with fee (see Part 1457 for current fees) payable to the Ill.C.C. To avoid a lot of wasted time, money, and inconvenience, ***now is the time to make sure the application shows the name the new owner will want to use in the business.*** That is the name the license will show, and **that is the name that must be used** to identify all trucks, on all paperwork, and in all advertising. Make sure it's correct from the very beginning, because it's costly to change it later.

The applicant (new owner) is required to take the ILCC's open book test to demonstrate knowledge of the rules and regulations. Presuming he or she passes the test, the Ill.C.C. will assign a hearing date. Following prescribed guidelines, it's up to the petitioners to publish a notice in the official state newspaper listing the hearing date, etc., in advance of the hearing. Your attorney will assist you.

All applicants are also required to **attend a compliance class at the ILCC.** These excellent classes are held quarterly, and the applicant must attend before the new or transferred license will be issued.

At the hearing: the seller will be asked to prove that the authority is not dormant by bringing in bills of lading showing recent shipments to the full extent of the authority. The purchaser will be asked to show his or her fitness (including financial and experience) to acquire this authority.

After the hearing: Until the Order has been approved by the Ill.C.C., nothing is official. Once the Order has been released, the purchaser will be required to show proof of tariffs, insurance, and purchase franchise stamps. Only after all these items are completed will a license be issued to the new owner. **The new owner is not allowed to operate the authority until the new license is received.** The new owner is expected to follow all rules and regulations.

Your association staff is very familiar with this process, and we're glad to help you and your prospective purchaser understand the details and maneuver some of the paperwork. To benefit from your staff's nearly 40 years of experience, call IMAWA at 888-791-2516.