



- 1 (2) Chapter 11, Consumer Sales Practices Act;
- 2 (3) Chapter 10a, Music Licensing Practices Act;
- 3 [~~3~~] (4) Chapter 15, Business Opportunity Disclosure Act;
- 4 [~~4~~] (5) Chapter 16, Motor Fuel Marketing Act;
- 5 [~~5~~] (6) Chapter 20, New Motor Vehicle Warranties Act;
- 6 [~~6~~] (7) Chapter 21, Credit Services Organizations Act;
- 7 [~~7~~] (8) Chapter 22, Charitable Solicitations Act;
- 8 [~~8~~] (9) Chapter 23, Health Spa Services Protection Act;
- 9 [~~9~~] (10) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 10 [~~10~~] (11) Chapter 26, Telephone Fraud Prevention Act; and
- 11 [~~11~~] (12) Chapter 28, Prize Notices Regulation Act.

12 Section 2. Section **13-10a-1** is enacted to read:

13 **CHAPTER 10a. MUSIC LICENSING PRACTICES**

14 **13-10a-1. Title.**

15 This act is known as the "Music Licensing Practices Act."

16 Section 3. Section **13-10a-2** is enacted to read:

17 **13-10a-2. Definitions.**

18 As used in this chapter:

19 (1) "Copyright laws of the United States" means those laws specified pursuant to Title 17,  
20 United States Code.

21 (2) "Division" means the Division of Consumer Protection.

22 (3) "Performing rights society or organization" means an association, corporation, or other  
23 entity that licenses the public performance of nondramatic musical works on behalf of copyright  
24 owners, such as the American Society of Composers, Authors, and Publishers (ASCAP),  
25 Broadcast Music, Inc. (BMI), and SESAC, Inc.

26 (4) "Proprietor" means the owner of a retail establishment, restaurant, inn, bar, tavern,  
27 sports or entertainment facility, not for profit organization, or any other place of business or  
28 professional office located in this state in which:

29 (a) the public may assemble; and

30 (b) nondramatic musical works may be performed, broadcast, or otherwise transmitted for  
31 the enjoyment of the members of the public there assembled.

1           (5) "Royalty" or "royalties" means the fees payable by a proprietor to a performing rights  
2 society for the public performance on nondramatic musical or other similar works.

3           Section 4. Section **13-10a-3** is enacted to read:

4           **13-10a-3. Access to repertoire.**

5           (1) Each performing rights society or organization licensing music in the state shall:

6           (a) maintain a current electronic list of its repertoire including the titles and names of the  
7 authors and publishers of all its copyrighted musical works;

8           (b) update the list at least quarterly; and

9           (c) electronically provide the list to the division.

10          (2) Upon request, any person may review the list, in electronic form, of copyrighted works  
11 through the division.

12          (3) The list in electronic form existing at the time a proprietor enters into a contract with  
13 a performing rights society or organization, and modified by subsequent additions or deletions to  
14 the list, shall be binding between the parties for the period of the contract.

15          (4) Each performing rights society or organization shall provide an electronic copy of its  
16 most current lists of copyrighted musical works and members at cost, not including the cost of  
17 maintaining the database or any other overhead, to any person upon request.

18          (5) Each performing rights society or organization licensing music in this state shall  
19 establish and maintain a toll free telephone number which can be used to answer inquiries  
20 regarding specific musical works licensed by that performing rights society and the copyright  
21 owners represented by the performing rights society or organization.

22          Section 5. Section **13-10a-4** is enacted to read:

23          **13-10a-4. Notification of rights.**

24          No performing rights society or organization may enter into, or offer to enter into, a  
25 contract for the payment of royalties by a proprietor unless at the time of the offer, or any time  
26 thereafter, but no later than 72 hours prior to the execution of the contract, it provides to the  
27 proprietor, in writing, a schedule of the rates and terms of royalties under the contract, including:

28          (1) any sliding scale, discounts, or reductions in fees on any basis for which the proprietor  
29 may be eligible; and

30          (2) any scheduled increases or decreases in fees during the term of the contract.

31          Section 6. Section **13-10a-5** is enacted to read:

1           **13-10a-5. Contract requirements.**

2           (1) Beginning July 1, 1998, each contract for the payment of royalties between a proprietor  
3 and a performing rights society or organization executed, issued, or renewed in the state shall:

4           (a) be in writing;

5           (b) be signed by both parties to the contract; and

6           (c) include at least the following information:

7           (i) the proprietor's name and business address and the name and location of each place of  
8 business to which the contract applies;

9           (ii) the name and business address of the performing rights society or organization;

10          (iii) the duration of the contract; and

11          (iv) the schedule of rates and terms of royalties to be collected under the contract,  
12 including any sliding scale, discount, or schedule for any increase or decrease of those rates for  
13 the duration of the contract.

14          (2) (a) Each contract for the payment of royalties entered into, issued, or renewed in this  
15 state may not exceed one year at a time, unless both parties agree otherwise.

16          (b) When each year of a multiyear contract ends, the contract must provide that it is  
17 automatically renewed on the same terms and conditions unless either party to the contract  
18 provides the other party with written notice of the party's desire to terminate the contract or to  
19 change the terms and conditions.

20          (c) The notice required in Subsection (2)(b) must be given at least 30 days before the  
21 termination of the current term of the contract.

22          (3) Each contract shall provide that all billings, invoices, or other requests for payment  
23 include an itemization showing the charge for each licensed activity and the manner in which it  
24 is assessed.

25          (4) An action may be brought as provided in Section 13-10a-7.

26          (5) (a) Nothing in this act shall be construed to affect any contract signed before July 1,  
27 1998.

28          (b) All contracts signed before July 1, 1998, that are renewed after that date are subject to  
29 the requirements of this act.

30          Section 7. Section **13-10a-6** is enacted to read:

31          **13-10a-6. Jurisdiction of court action.**

1           An action may be brought in a court of competent jurisdiction to assert a counterclaim  
2 against a performing rights society or enjoin a violation of this act and to recover actual damages  
3 sustained as a result of that violation.

4           Section 8. Section **13-10a-7** is enacted to read:

5           **13-10a-7. Provisions of chapter not exclusive.**

6           The remedies, duties, and prohibitions of this chapter are not exclusive and are in addition  
7 to all other causes of actions, remedies, and penalties provided by law.

8           Section 9. Section **13-10a-8** is enacted to read:

9           **13-10a-8. Exemptions.**

10           This act does not apply to contracts between performing rights societies or organizations  
11 and broadcasters licensed by the Federal Communications Commission, unless any such society  
12 is licensed by the Federal Communications Commission.

13           Section 10. **Effective date.**

14           This act takes effect on July 1, 1998.

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**Legislative Review Note**  
**as of 1-21-98 4:34 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**