



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 612**

October 26, 1995 – Offered by COMMITTEE ON CONSUMER AFFAIRS.

1 **AN ACT to create** 134.24 of the statutes; **relating to:** regulation of performing
2 rights societies.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 134.24 of the statutes is created to read:

4 **134.24 Music royalty collections; fair practices. (1) DEFINITIONS.** In this
5 section:

6 (a) “Copyright owner” means the owner of a copyright that is of a musical work
7 and that is recognized and enforceable under 17 USC 101, et seq. “Copyright owner”
8 does not include the owner of a copyright that is of a motion picture or audiovisual
9 work or that is of part of a motion picture or audiovisual work.

10 (b) “Department” means the department of agriculture, trade and consumer
11 protection.

12 (c) “Musical work” means a nondramatic musical work or a work of a similar
13 nature.

1 (d) "Performing rights society" means an association or corporation that
2 licenses the public performance of musical works on behalf of one or more copyright
3 owners.

4 (e) "Proprietor" means the owner of a retail establishment or a restaurant.

5 (f) "Restaurant" includes an inn, bar, tavern or sports or entertainment facility
6 in which the public may assemble and in which musical works may be performed or
7 otherwise transmitted for the enjoyment of the public.

8 (g) "Royalties" means the fees payable to a copyright owner or performing
9 rights society for the public performance of a musical work.

10 **(2) DUTIES.** A performing rights society shall do all of the following:

11 (a) File annually for public inspection with the department all of the following:

12 1. A certified copy of each document that is used at the time of filing by the
13 performing rights society to enter into a contract with a proprietor doing business in
14 this state.

15 2. A list, that is the most current list available at the time of the filing, of the
16 copyright owners who are represented by the performing rights society and of the
17 musical works licensed under the contracts with the copyright owners.

18 (b) Make available, upon request of a proprietor, information as to whether a
19 specific musical work is licensed under a contract entered into by the performing
20 rights society and a copyright owner. A proprietor may request this information by
21 telephone or other electronic means.

22 (c) Make available, upon written request of a proprietor and at the sole expense
23 of a proprietor, any of the information required to be on file under par. (a).

24 **(3) DISCLOSURE REQUIREMENTS.** (a) No performing rights society may offer to
25 enter into, or offer to enter into, a contract for the payment of royalties by a proprietor

1 unless the performing rights society, at the time of the offer or between the time of
2 the offer and 72 hours before the execution of the contract, provides to the proprietor
3 a written notice of all of the obligations of the performing rights society as specified
4 under sub. (2). The written notice shall also contain a statement as to whether the
5 performing rights society is in compliance with any applicable federal law or court
6 order that relates to the rates and terms of royalties to be paid by the proprietor or
7 that relates to the circumstances or methods under which contracts subject to this
8 section are offered to the proprietor.

9 (b) No performing rights society may make an incomplete or false disclosure
10 in the written notice required under par. (a).

11 **(4) CONTRACT REQUIREMENTS.** (a) A contract entered into or renewed in this
12 state by a proprietor and a performing rights society for the payment of royalties
13 shall be in writing and signed by the parties.

14 (b) The information in the contract shall include all of the following:

15 1. The proprietor's name and business address and the name and location of
16 each retail establishment and restaurant to which the contract applies.

17 2. The name of the performing rights society.

18 3. The length of the contract.

19 4. The schedule of rates and terms of the royalties to be collected under the
20 contract, including any sliding scale or schedule for any increase or decrease of the
21 rates during the term of the contract.

22 **(5) PROHIBITED PRACTICES.** No employe or agent of a performing rights society
23 may do any of the following:

24 (a) Enter the business premises of a proprietor to discuss a contract under this
25 section with the proprietor or his or her employes, without identifying himself or

1 herself and making known the purpose of the visit before commencing any further
2 communication with the proprietor or the proprietor's employees.

3 (b) Engage in any coercive conduct, act or practice that disrupts the business
4 premises of a proprietor in a substantial manner.

5 (c) Use or attempt to use any deceptive act or practice in negotiating a contract
6 with a proprietor or in collecting royalties from a proprietor.

7 (d) Fail to comply with the requirements imposed under subs. (2), (3) and (4).

8 **(6) CIVIL REMEDY.** Any person damaged as a result of a violation of this section
9 may bring a civil action to recover damages, court costs and, notwithstanding s.
10 814.04 (1), reasonable attorney fees. The person may also request in the action any
11 other legal or equitable relief.

12 **(7) OTHER RIGHTS AND REMEDIES.** This section does not limit any other right or
13 remedy provided by law.

14 **SECTION 2. Initial applicability.**

15 (1) The treatment of section 134.24 (3) and (4) of the statutes first applies to
16 contracts entered into or renewed on the effective date of this subsection.

17 **SECTION 3. Effective date.**

18 (1) This act takes effect on the first day of the 3rd month beginning after
19 publication.

20 **(END)**