

## CHAPTER 177.

## COPYRIGHTED MUSIC.

## 177.01 Music brokers.

**177.01 Music brokers.** (1) No person, firm, association or corporation, other than the true or original composer, shall, either directly or indirectly, issue licenses, or other agreements, for the public rendition of copyrighted musical numbers by persons within this state unless said person, firm, association or corporation shall first obtain a license from the secretary of state to transact such business within this state.

(2) Any person, firm, association or corporation, other than the true or original composer, desiring to obtain such license, shall file with the secretary of state a true copy of the articles of association, partnership, incorporation or organization, whichever the case may be, together with a verified statement showing:

- (a) The names, salaries or compensation or its officers, agents and/or assignees.
- (b) The titles of the musical numbers owned, controlled or otherwise held by him or it.
- (c) The rates to be charged users thereof, and the basis therefor.
- (d) If assignees, the purchase price, or other agreement between the true or original composers and him or it.
- (e) The total gross receipts received by him or it for the preceding year.
- (f) The total disbursements made by him or it during the preceding year, and to whom and for what such disbursements were made.

(3) At the time of filing said verified statement, each person, firm, association or corporation, other than the true or original composer, shall pay to the secretary of state a franchise tax equivalent to twenty-five per cent of his or its entire gross receipts from persons within this state for or on account of licenses or other agreements for the public rendition of copyrighted musical numbers within this state for the preceding year. The secretary of state shall thereupon issue to the applicant a license to transact such business in the state. Such license shall expire on the thirty-first day of December of each year and may be renewed by the payment of such franchise tax and the filing of the copy and verified statement referred to in subsection (2) of this section.

(4) Any person, firm, association or corporation who shall request the playing of any copyrighted musical number, in any public place, with intent and for the purpose of making such rendition a basis for an infringement suit against the proprietor thereof, or any other person; or who shall, without first obtaining the necessary license therefor, attempt, by threats of suit, or other means, either oral or in writing, to compel persons in this state to purchase licenses for the rendition of musical numbers shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of five hundred dollars for each offense, and in addition thereto, upon the application of any person interested therein, any court of competent jurisdiction may issue injunctions restraining such acts or practices.

(5) No person, except the actual composer thereof, shall engage in whole or in part in the business or occupation of obtaining, or hold himself or herself out as one who can obtain, information concerning, or in anywise engage in the investigation of, public rendition of copyrighted musical numbers by persons within this state without first obtaining a license so to do from the secretary of state.

(6) Any person seeking to act as investigator or to engage in such business or occupation, either in whole or in part, shall file a written application with the secretary of state setting forth the applicant's name, residence, former and present occupation, employer's name, names of copyright owner or owners for whom information is sought, the basis and rate of remuneration, if any, for such employment or services and any other information as the secretary of state may require or deem necessary to properly carry out the intents and purposes of subsections (5), (6) and (7) of this section. Upon the filing of the application and the payment of the license fee of twenty dollars, the secretary of state shall issue to the applicant a license for the period ending the thirty-first day of December of the year of the making of the application. All changes of employers or copyright owners shall, not later than ten days after any change occurs, be reported to the secretary of state.

(7) Any person violating any provision of subsections (5), (6) and (7) of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars for each offense. For the purpose of said subsections (5), (6) and (7) each report of a musical number alleged to have been publicly rendered shall be deemed a separate offense.

(8) The secretary of state shall enforce the provisions of this section to the end that all persons, firms and corporations affected by this section shall secure the required licenses and otherwise comply with its provisions. The secretary of state on his own initiative or upon complaint may investigate suspected or reported violations of this section and shall report the facts in connection therewith to the proper enforcement officers for prosecution. [1935 c. 345; 1937 c. 247; 1941 c. 47]

**Note:** Corporation to which performers have assigned their alleged property rights in performances as recorded mechanically must comply with provisions of chapter 177, Stats. 27 Atty. Gen. 794. An action for infringement of a copyright is an action ex delicto and hence failure to comply with the state licensing statute does not bar recovery. *Leo Feist Inc. v. Young*, 138 F (2d) 972.

178.01 to 178.07 [Created by Spl. S. 1937 c. 4; repealed by 1939 c. 144]