

State of Wisconsin



1995 Senate Bill 379

Date of enactment: **April 24, 1996**

Date of publication*: **May 8, 1996**

1995 WISCONSIN ACT 284

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

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

SECTION 1. 134.24 of the statutes is created to read:
134.24 Music royalty collections; fair practices.

(1) DEFINITIONS. In this section:

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

(b) "Department" means the department of agriculture, trade and consumer protection.

(c) "Musical work" means a nondramatic musical work or a work of a similar nature.

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

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

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

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

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

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

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

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

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

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

(3) DISCLOSURE REQUIREMENTS. (a) No performing rights society may offer to enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless the performing rights society, at the time of the offer or between the time of the offer and 72 hours before the execution of the contract, provides to the proprietor a written notice of all of the obligations of the performing rights society as specified under sub. (2). The written

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

notice shall also contain a statement as to whether the performing rights society is in compliance with any applicable federal law or court order that relates to the rates and terms of royalties to be paid by the proprietor or that relates to the circumstances or methods under which contracts subject to this section are offered to the proprietor.

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

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

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

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

2. The name of the performing rights society.

3. The length of the contract.

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

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

(a) Enter the business premises of a proprietor to discuss a contract under this section with the proprietor or

his or her employes, without identifying himself or herself and making known the purpose of the visit before commencing any further communication with the proprietor or the proprietor's employes.

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

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

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

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

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

SECTION 2. Initial applicability.

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

SECTION 3. Effective date.

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