

SENATE BILL REPORT

SB 5845

As of February 14, 1995

Title: An act relating to collection of broadcast copyright royalty fees from Washington businesses.

Brief Description: Regulating the collection of broadcast copyright royalties.

Sponsors: Senator Sutherland.

Brief History:

Committee Activity: Energy, Telecommunications & Utilities: 2/16/95.

SENATE COMMITTEE ON ENERGY, TELECOMMUNICATIONS & UTILITIES

Staff: David Danner (786-7784)

Background: Under federal copyright law, copyright owners are entitled to royalties for certain performances of their works, including performances broadcast over radio and television. However, the law exempts from royalty obligations businesses that play on their premises televisions and radios of a kind commonly found in private homes, as long as no direct charge is made to customers to see or hear the transmissions, and as long as the transmission is not retransmitted to the public.

Lack of clarity in the federal law and its subsequent court interpretations has resulted in some confusion over the extent to which retailers, restaurants, taverns, and other businesses are required to pay licensing fees for copyright broadcast over radios and televisions in their establishments.

Business owners assert that performing rights societies, which act as agents for songwriters and publishers, often demand royalty payments beyond those required by law. They say these demands are often accompanied by unfounded threats of lawsuits based on false or misleading interpretations of the law.

Summary of Bill: Copyright owners and performing rights societies who seek royalties from businesses must provide the businesses at least 48 hours before the execution of a contract or collection of royalties:

- (1) the name, address and telephone number of the representative of the performing rights society;
- (2) the duration of the contract the copyright owner or performing rights society seeks to execute;

(3) copies of all relevant sections of the Copyright Act on which the copyright owner or society relies as the legal basis for its demands for royalties, and all exemptions from payment obligations which may apply to the business;

(4) a schedule of rates and terms;

(5) a list of the highest, lowest and mean licensing fees collected from similar businesses within the county and state in which the business is located; and

(6) a list of all song titles licensed by the performing rights society which may be transmitted over a radio or television in the business's location.

A copyright owner or performing rights society is prohibited from misrepresenting its legal rights, or the business's legal obligations under the Copyright Act, and cannot seek royalty payments that are unreasonable in comparison with those charged to similar businesses.

A copyright licensing agreement cannot require a Washington business to submit to binding arbitration outside the state, before an arbitrator residing outside the state, or before an arbitration panel the majority of whose members reside outside the state.

Violations of these provisions constitute unfair and deceptive practices under the consumer protection laws. The Attorney General is authorized to bring appropriate enforcement actions against a copyright owner or performing rights society for such violations.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.