

E2SHB 1763 - S COMM AMD

By Committee on Commerce & Labor

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Department" means the department of licensing.

7 (2) "Music licensing agency" means any association or corporation
8 that licenses the public performances of nondramatic musical works on
9 behalf of copyright owners.

10 (3) "Proprietor" means the owner of a retail establishment,
11 restaurant, inn, bar, tavern, sports or entertainment facility, or
12 any other similar place of business or professional office located in
13 this state in which the public may assemble and in which nondramatic
14 musical works or similar copyrighted works may be performed,
15 broadcast, or otherwise transmitted for the enjoyment of members of
16 the public there assembled.

17 (4) "Royalty" or "royalties" means the fees payable to a
18 copyright owner or music licensing agency for the public performance
19 of nondramatic musical works or other similar works.

20 NEW SECTION. **Sec. 2.** A music licensing agency that licenses the
21 performing rights to music may not license or attempt to license the
22 use of or collect or attempt to collect any compensation on account
23 of any sale, license, or other disposition regarding the performance
24 rights of music unless the music licensing agency:

25 (1) Files annually with the secretary of state an electronic copy
26 of each performing rights form agreement providing for the payment of
27 royalties made available from the music licensing agency or copyright
28 owner to any proprietor within the state;

29 (2) Completes an initial or renewal application for a music
30 licensing agency license on a form for this purpose, furnished by the
31 department;

32 (3) Pays the initial or renewal licensing fees as established by
33 the department; and

1 (4) Has a valid Washington unified business identifier number.

2 NEW SECTION. **Sec. 3.** A music licensing agency must make
3 available electronically to business proprietors the most current
4 available list of members and affiliates represented by the music
5 licensing agency and the most current available list of the performed
6 works that the agency licenses.

7 NEW SECTION. **Sec. 4.** Separate from any fines imposed under
8 chapter 18.235 RCW, a music licensing agency is subject to a civil
9 penalty of not more than one thousand dollars for each separate
10 violation of this chapter. Multiple violations on a single day may be
11 considered separate violations. The penalty may be imposed by the
12 department for violations under this chapter.

13 NEW SECTION. **Sec. 5.** (1) Before seeking payment or a contract
14 for payment of royalties for the use of copyrighted works by that
15 proprietor, a representative or agent for a music licensing agency
16 must:

17 (a) Provide at least twenty-four hours' notice before entering
18 the premises of the proprietor; and

19 (b) Identify himself or herself to the proprietor or the
20 proprietor's employees, disclose that he or she is acting on behalf
21 of a music licensing agency, and disclose the purpose for being on
22 the premises.

23 (2) A representative or agent of a music licensing agency must
24 not:

25 (a) Use obscene, abusive, or profane language when communicating
26 with the proprietor or his or her employees;

27 (b) Engage in any coercive conduct, act, or practice that is
28 substantially disruptive to a proprietor's business; or

29 (c) Use or attempt to use any unfair or deceptive act or practice
30 in negotiating with a proprietor.

31 (3) Nothing in this chapter may be construed to prohibit a music
32 licensing agency from conducting investigations to determine the
33 existence of music use by a proprietor's business or informing a
34 proprietor of the proprietor's obligation under the copyright laws of
35 the United States pursuant to Title 17 of the United States Code
36 (P.L. 94-553, 17 U.S.C. Sec. 101 et seq.).

1 NEW SECTION. **Sec. 6.** In collaboration with the office of the
2 attorney general, the department shall conduct a consumer awareness
3 campaign to inform business proprietors of their rights and
4 responsibilities regarding the public performance of copyrighted
5 music. The consumer awareness campaign must be paid for with fees
6 collected pursuant to section 2 of this act and penalties imposed
7 pursuant to sections 4 and 7 of this act.

8 NEW SECTION. **Sec. 7.** The uniform regulation of business and
9 professions act, chapter 18.235 RCW, governs unlicensed practice, the
10 issuance and denial of licenses, and the discipline of licensees
11 under this chapter.

12 NEW SECTION. **Sec. 8.** (1) The director of licensing is hereby
13 authorized to adopt reasonable rules not in conflict with provisions
14 hereof for the proper operation and enforcement of this chapter.

15 (2) The director shall set all license and renewal fees in
16 accordance with RCW 43.24.086.

17 **Sec. 9.** RCW 18.235.020 and 2013 c 322 s 29 are each amended to
18 read as follows:

19 (1) This chapter applies only to the director and the boards and
20 commissions having jurisdiction in relation to the businesses and
21 professions licensed under the chapters specified in this section.
22 This chapter does not apply to any business or profession not
23 licensed under the chapters specified in this section.

24 (2)(a) The director has authority under this chapter in relation
25 to the following businesses and professions:

26 (i) Auctioneers under chapter 18.11 RCW;

27 (ii) Bail bond agents and bail bond recovery agents under chapter
28 18.185 RCW;

29 (iii) Camping resorts' operators and salespersons under chapter
30 19.105 RCW;

31 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

32 (v) Cosmetologists, barbers, manicurists, and estheticians under
33 chapter 18.16 RCW;

34 (vi) Court reporters under chapter 18.145 RCW;

35 (vii) Driver training schools and instructors under chapter 46.82
36 RCW;

37 (viii) Employment agencies under chapter 19.31 RCW;

1 (ix) For hire vehicle operators under chapter 46.72 RCW;
2 (x) Limousines under chapter 46.72A RCW;
3 (xi) Notaries public under chapter 42.44 RCW;
4 (xii) Private investigators under chapter 18.165 RCW;
5 (xiii) Professional boxing, martial arts, and wrestling under
6 chapter 67.08 RCW;
7 (xiv) Real estate appraisers under chapter 18.140 RCW;
8 (xv) Real estate brokers and salespersons under chapters 18.85
9 and 18.86 RCW;
10 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
11 metal suppliers under chapter 19.290 RCW;
12 (xvii) Security guards under chapter 18.170 RCW;
13 (xviii) Sellers of travel under chapter 19.138 RCW;
14 (xix) Timeshares and timeshare salespersons under chapter 64.36
15 RCW;
16 (xx) Whitewater river outfitters under chapter 79A.60 RCW;
17 (xxi) Home inspectors under chapter 18.280 RCW;
18 (xxii) Body artists, body piercers, and tattoo artists, and body
19 art, body piercing, and tattooing shops and businesses, under chapter
20 18.300 RCW; (~~and~~)
21 (xxiii) Appraisal management companies under chapter 18.310 RCW;
22 and
23 (xxiv) Music licensing agencies under chapter 19.--- RCW (the new
24 chapter created in section 11 of this act).
25 (b) The boards and commissions having authority under this
26 chapter are as follows:
27 (i) The state board for architects established in chapter 18.08
28 RCW;
29 (ii) The Washington state collection agency board established in
30 chapter 19.16 RCW;
31 (iii) The state board of registration for professional engineers
32 and land surveyors established in chapter 18.43 RCW governing
33 licenses issued under chapters 18.43 and 18.210 RCW;
34 (iv) The funeral and cemetery board established in chapter 18.39
35 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
36 (v) The state board of licensure for landscape architects
37 established in chapter 18.96 RCW; and
38 (vi) The state geologist licensing board established in chapter
39 18.220 RCW.

1 (3) In addition to the authority to discipline license holders,
2 the disciplinary authority may grant or deny licenses based on the
3 conditions and criteria established in this chapter and the chapters
4 specified in subsection (2) of this section. This chapter also
5 governs any investigation, hearing, or proceeding relating to denial
6 of licensure or issuance of a license conditioned on the applicant's
7 compliance with an order entered under RCW 18.235.110 by the
8 disciplinary authority.

9 **Sec. 10.** RCW 43.24.150 and 2013 2nd sp.s. c 4 s 978 are each
10 amended to read as follows:

11 (1) The business and professions account is created in the state
12 treasury. All receipts from business or professional licenses,
13 registrations, certifications, renewals, examinations, or civil
14 penalties assessed and collected by the department from the following
15 chapters must be deposited into the account:

- 16 (a) Chapter 18.11 RCW, auctioneers;
- 17 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 18 (c) Chapter 18.145 RCW, court reporters;
- 19 (d) Chapter 18.165 RCW, private investigators;
- 20 (e) Chapter 18.170 RCW, security guards;
- 21 (f) Chapter 18.185 RCW, bail bond agents;
- 22 (g) Chapter 18.280 RCW, home inspectors;
- 23 (h) Chapter 19.16 RCW, collection agencies;
- 24 (i) Chapter 19.31 RCW, employment agencies;
- 25 (j) Chapter 19.105 RCW, camping resorts;
- 26 (k) Chapter 19.138 RCW, sellers of travel;
- 27 (l) Chapter 42.44 RCW, notaries public;
- 28 (m) Chapter 64.36 RCW, timeshares;
- 29 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- 30 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- 31 (p) Chapter 79A.60 RCW, whitewater river outfitters;
- 32 (q) Chapter 19.158 RCW, commercial telephone solicitation;
- 33 (~~and~~)
- 34 (r) Chapter 19.290 RCW, scrap metal businesses; and
- 35 (s) Chapter 19.--- RCW (the new chapter created in section 11 of
36 this act), music licensing agencies.

37 Moneys in the account may be spent only after appropriation.
38 Expenditures from the account may be used only for expenses incurred
39 in carrying out these business and professions licensing activities

1 of the department. Any residue in the account must be accumulated and
2 may not revert to the general fund at the end of the biennium.
3 However, during the 2013-2015 fiscal biennium the legislature may
4 transfer to the state general fund such amounts as reflect the excess
5 fund balance in the account.

6 (2) The director must biennially prepare a budget request based
7 on the anticipated costs of administering the business and
8 professions licensing activities listed in subsection (1) of this
9 section, which must include the estimated income from these business
10 and professions fees.

11 NEW SECTION. **Sec. 11.** Sections 1 through 8 and 12 of this act
12 constitute a new chapter in Title 19 RCW.

13 NEW SECTION. **Sec. 12.** This act takes effect January 1, 2016."

E2SHB 1763 - S COMM AMD

By Committee on Commerce & Labor

14 On page 1, line 1 of the title, after "agencies;" strike the
15 remainder of the title and insert "amending RCW 18.235.020 and
16 43.24.150; adding a new chapter to Title 19 RCW; prescribing
17 penalties; and providing an effective date."

EFFECT: The amendment clarifies that only form agreements are
required to be filed with the Secretary of State; penalties may be
imposed by the department and not a court; removes the private party
claims; removes the prohibition for communicating at unusual times
and inconvenient places; removes the requirement for a representative
to communicate with at least once in person before investigating a
claim; adds a provision that nothing in the act may be construed to
prevent the agency from investigating under the federal copyright
laws; and removes the provision for a Consumer Protection Act
violation.

--- END ---