
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1763

State of Washington

64th Legislature

2015 Regular Session

By House General Government & Information Technology (originally sponsored by Representatives Van De Wege, Lytton, Riccelli, and Tharinger)

1 AN ACT Relating to regulating music licensing agencies; amending
2 RCW 18.235.020 and 43.24.150; adding a new chapter to Title 19 RCW;
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

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

6 (1) Files annually with the secretary of state an electronic copy
7 of each performing rights contract or license form agreement
8 providing for the payment of royalties made available from the music
9 licensing agency or copyright owner to any proprietor within the
10 state;

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

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

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

17 NEW SECTION. **Sec. 3.** A music licensing agency must make
18 available electronically to business proprietors the most current
19 available list of members and affiliates represented by the music
20 licensing agency and the most current available list of the performed
21 works that the agency licenses.

22 NEW SECTION. **Sec. 4.** Separate from any fines imposed under
23 chapter 18.235 RCW, a music licensing agency is subject to a civil
24 penalty of not more than one thousand dollars for each separate
25 violation of this chapter. Multiple violations on a single day may be
26 considered separate violations. The penalty may be imposed by the
27 department or in any court of competent jurisdiction and may be
28 imposed separately and in addition to any private party claims for
29 violations under this chapter.

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

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

36 (b) Identify himself or herself to the proprietor or the
37 proprietor's employees, disclose that he or she is acting on behalf

1 of a music licensing agency, and disclose the purpose for being on
2 the premises.

3 (2) A representative or agent of a music licensing agency must
4 not:

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

7 (b) Communicate at an unusual time or place known or which should
8 be known to be inconvenient to the proprietor;

9 (c) Engage in any coercive conduct, act, or practice that is
10 substantially disruptive to a proprietor's business; or

11 (d) Use or attempt to use any unfair or deceptive act or practice
12 in negotiating with a proprietor.

13 (3) A representative or agent of a music licensing agency must
14 communicate with the proprietor of a business at least once in person
15 before conducting an investigation to substantiate a claim for the
16 use of copyrighted music by the proprietor.

17 NEW SECTION. **Sec. 6.** The legislature finds that the practices
18 covered by section 5 of this act are matters vitally affecting the
19 public interest for the purpose of applying the consumer protection
20 act, chapter 19.86 RCW. A violation of this chapter is not reasonable
21 in relation to the development and preservation of business and is an
22 unfair or deceptive act in trade or commerce and an unfair method of
23 competition for the purpose of applying the consumer protection act,
24 chapter 19.86 RCW.

25 NEW SECTION. **Sec. 7.** In collaboration with the office of the
26 attorney general, the department shall conduct a consumer awareness
27 campaign to inform business proprietors of their rights and
28 responsibilities regarding the public performance of copyrighted
29 music. The consumer awareness campaign must be paid for with fees
30 collected pursuant to section 2 of this act and penalties imposed
31 pursuant to sections 4 and 8 of this act.

32 NEW SECTION. **Sec. 8.** The uniform regulation of business and
33 professions act, chapter 18.235 RCW, governs unlicensed practice, the
34 issuance and denial of licenses, and the discipline of licensees
35 under this chapter.

1 NEW SECTION. **Sec. 9.** (1) The director of licensing is hereby
2 authorized to adopt reasonable rules not in conflict with provisions
3 hereof for the proper operation and enforcement of this chapter.

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

6 **Sec. 10.** RCW 18.235.020 and 2013 c 322 s 29 are each amended to
7 read as follows:

8 (1) This chapter applies only to the director and the boards and
9 commissions having jurisdiction in relation to the businesses and
10 professions licensed under the chapters specified in this section.
11 This chapter does not apply to any business or profession not
12 licensed under the chapters specified in this section.

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

15 (i) Auctioneers under chapter 18.11 RCW;

16 (ii) Bail bond agents and bail bond recovery agents under chapter
17 18.185 RCW;

18 (iii) Camping resorts' operators and salespersons under chapter
19 19.105 RCW;

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

21 (v) Cosmetologists, barbers, manicurists, and estheticians under
22 chapter 18.16 RCW;

23 (vi) Court reporters under chapter 18.145 RCW;

24 (vii) Driver training schools and instructors under chapter 46.82
25 RCW;

26 (viii) Employment agencies under chapter 19.31 RCW;

27 (ix) For hire vehicle operators under chapter 46.72 RCW;

28 (x) Limousines under chapter 46.72A RCW;

29 (xi) Notaries public under chapter 42.44 RCW;

30 (xii) Private investigators under chapter 18.165 RCW;

31 (xiii) Professional boxing, martial arts, and wrestling under
32 chapter 67.08 RCW;

33 (xiv) Real estate appraisers under chapter 18.140 RCW;

34 (xv) Real estate brokers and salespersons under chapters 18.85
35 and 18.86 RCW;

36 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
37 metal suppliers under chapter 19.290 RCW;

38 (xvii) Security guards under chapter 18.170 RCW;

39 (xviii) Sellers of travel under chapter 19.138 RCW;

1 (xix) Timeshares and timeshare salespersons under chapter 64.36
2 RCW;

3 (xx) Whitewater river outfitters under chapter 79A.60 RCW;

4 (xxi) Home inspectors under chapter 18.280 RCW;

5 (xxii) Body artists, body piercers, and tattoo artists, and body
6 art, body piercing, and tattooing shops and businesses, under chapter
7 18.300 RCW; (~~and~~)

8 (xxiii) Appraisal management companies under chapter 18.310 RCW;
9 and

10 (xxiv) Music licensing agencies under chapter 19.--- RCW (the new
11 chapter created in section 12 of this act).

12 (b) The boards and commissions having authority under this
13 chapter are as follows:

14 (i) The state board for architects established in chapter 18.08
15 RCW;

16 (ii) The Washington state collection agency board established in
17 chapter 19.16 RCW;

18 (iii) The state board of registration for professional engineers
19 and land surveyors established in chapter 18.43 RCW governing
20 licenses issued under chapters 18.43 and 18.210 RCW;

21 (iv) The funeral and cemetery board established in chapter 18.39
22 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

23 (v) The state board of licensure for landscape architects
24 established in chapter 18.96 RCW; and

25 (vi) The state geologist licensing board established in chapter
26 18.220 RCW.

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

35 **Sec. 11.** RCW 43.24.150 and 2013 2nd sp.s. c 4 s 978 are each
36 amended to read as follows:

37 (1) The business and professions account is created in the state
38 treasury. All receipts from business or professional licenses,
39 registrations, certifications, renewals, examinations, or civil

1 penalties assessed and collected by the department from the following
2 chapters must be deposited into the account:

- 3 (a) Chapter 18.11 RCW, auctioneers;
- 4 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 5 (c) Chapter 18.145 RCW, court reporters;
- 6 (d) Chapter 18.165 RCW, private investigators;
- 7 (e) Chapter 18.170 RCW, security guards;
- 8 (f) Chapter 18.185 RCW, bail bond agents;
- 9 (g) Chapter 18.280 RCW, home inspectors;
- 10 (h) Chapter 19.16 RCW, collection agencies;
- 11 (i) Chapter 19.31 RCW, employment agencies;
- 12 (j) Chapter 19.105 RCW, camping resorts;
- 13 (k) Chapter 19.138 RCW, sellers of travel;
- 14 (l) Chapter 42.44 RCW, notaries public;
- 15 (m) Chapter 64.36 RCW, timeshares;
- 16 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- 17 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- 18 (p) Chapter 79A.60 RCW, whitewater river outfitters;
- 19 (q) Chapter 19.158 RCW, commercial telephone solicitation;
- 20 ((and))
- 21 (r) Chapter 19.290 RCW, scrap metal businesses; and
- 22 (s) Chapter 19.--- RCW (the new chapter created in section 12 of
23 this act), music licensing agencies.

24 Moneys in the account may be spent only after appropriation.
25 Expenditures from the account may be used only for expenses incurred
26 in carrying out these business and professions licensing activities
27 of the department. Any residue in the account must be accumulated and
28 may not revert to the general fund at the end of the biennium.
29 However, during the 2013-2015 fiscal biennium the legislature may
30 transfer to the state general fund such amounts as reflect the excess
31 fund balance in the account.

32 (2) The director must biennially prepare a budget request based
33 on the anticipated costs of administering the business and
34 professions licensing activities listed in subsection (1) of this
35 section, which must include the estimated income from these business
36 and professions fees.

37 NEW SECTION. Sec. 12. Sections 1 through 9 and 13 of this act
38 constitute a new chapter in Title 19 RCW.

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

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