
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)

READ FIRST TIME 02/27/15.

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 for violations under this chapter.

28 NEW SECTION. **Sec. 5.** (1) A person employed by or working as a
29 contractor or agent for a music licensing agency may not enter onto
30 the premises of a proprietor's business for the purpose of seeking
31 payment or a contract for payment of royalties for the use of
32 copyrighted works by that proprietor without first identifying
33 himself or herself to the proprietor or the proprietor's employees
34 and disclosing that the person is acting on behalf of a music
35 licensing agency and disclosing the purposes for being on the
36 premises.

1 (2) Nothing in this chapter may be construed to prohibit a music
2 licensing agency from conducting investigations to determine the
3 existence of music use by a proprietor or informing a proprietor of
4 the proprietor's obligation under the copyright laws of the United
5 States pursuant to Title 17 of the United States Code, P.L. 94-553,
6 17 U.S.C. 101 et seq.

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

14 NEW SECTION. **Sec. 7.** The uniform regulation of business and
15 professions act, chapter 18.235 RCW, governs unlicensed practice, the
16 issuance and denial of licenses, and the discipline of licensees
17 under this chapter.

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

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

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

25 (1) This chapter applies only to the director and the boards and
26 commissions having jurisdiction in relation to the businesses and
27 professions licensed under the chapters specified in this section.
28 This chapter does not apply to any business or profession not
29 licensed under the chapters specified in this section.

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

32 (i) Auctioneers under chapter 18.11 RCW;

33 (ii) Bail bond agents and bail bond recovery agents under chapter
34 18.185 RCW;

35 (iii) Camping resorts' operators and salespersons under chapter
36 19.105 RCW;

1 (iv) Commercial telephone solicitors under chapter 19.158 RCW;
2 (v) Cosmetologists, barbers, manicurists, and estheticians under
3 chapter 18.16 RCW;
4 (vi) Court reporters under chapter 18.145 RCW;
5 (vii) Driver training schools and instructors under chapter 46.82
6 RCW;
7 (viii) Employment agencies under chapter 19.31 RCW;
8 (ix) For hire vehicle operators under chapter 46.72 RCW;
9 (x) Limousines under chapter 46.72A RCW;
10 (xi) Notaries public under chapter 42.44 RCW;
11 (xii) Private investigators under chapter 18.165 RCW;
12 (xiii) Professional boxing, martial arts, and wrestling under
13 chapter 67.08 RCW;
14 (xiv) Real estate appraisers under chapter 18.140 RCW;
15 (xv) Real estate brokers and salespersons under chapters 18.85
16 and 18.86 RCW;
17 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
18 metal suppliers under chapter 19.290 RCW;
19 (xvii) Security guards under chapter 18.170 RCW;
20 (xviii) Sellers of travel under chapter 19.138 RCW;
21 (xix) Timeshares and timeshare salespersons under chapter 64.36
22 RCW;
23 (xx) Whitewater river outfitters under chapter 79A.60 RCW;
24 (xxi) Home inspectors under chapter 18.280 RCW;
25 (xxii) Body artists, body piercers, and tattoo artists, and body
26 art, body piercing, and tattooing shops and businesses, under chapter
27 18.300 RCW; (~~and~~)
28 (xxiii) Appraisal management companies under chapter 18.310 RCW;
29 and
30 (xxiv) Music licensing agencies under chapter 19.--- RCW (the new
31 chapter created in section 11 of this act).
32 (b) The boards and commissions having authority under this
33 chapter are as follows:
34 (i) The state board for architects established in chapter 18.08
35 RCW;
36 (ii) The Washington state collection agency board established in
37 chapter 19.16 RCW;
38 (iii) The state board of registration for professional engineers
39 and land surveyors established in chapter 18.43 RCW governing
40 licenses issued under chapters 18.43 and 18.210 RCW;

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

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

5 (vi) The state geologist licensing board established in chapter
6 18.220 RCW.

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

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

17 (1) The business and professions account is created in the state
18 treasury. All receipts from business or professional licenses,
19 registrations, certifications, renewals, examinations, or civil
20 penalties assessed and collected by the department from the following
21 chapters must be deposited into the account:

- 22 (a) Chapter 18.11 RCW, auctioneers;
- 23 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 24 (c) Chapter 18.145 RCW, court reporters;
- 25 (d) Chapter 18.165 RCW, private investigators;
- 26 (e) Chapter 18.170 RCW, security guards;
- 27 (f) Chapter 18.185 RCW, bail bond agents;
- 28 (g) Chapter 18.280 RCW, home inspectors;
- 29 (h) Chapter 19.16 RCW, collection agencies;
- 30 (i) Chapter 19.31 RCW, employment agencies;
- 31 (j) Chapter 19.105 RCW, camping resorts;
- 32 (k) Chapter 19.138 RCW, sellers of travel;
- 33 (l) Chapter 42.44 RCW, notaries public;
- 34 (m) Chapter 64.36 RCW, timeshares;
- 35 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- 36 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- 37 (p) Chapter 79A.60 RCW, whitewater river outfitters;
- 38 (q) Chapter 19.158 RCW, commercial telephone solicitation;
- 39 ((and))

1 (r) Chapter 19.290 RCW, scrap metal businesses; and
2 (s) Chapter 19.--- RCW (the new chapter created in section 11 of
3 this act), music licensing agencies.

4 Moneys in the account may be spent only after appropriation.
5 Expenditures from the account may be used only for expenses incurred
6 in carrying out these business and professions licensing activities
7 of the department. Any residue in the account must be accumulated and
8 may not revert to the general fund at the end of the biennium.
9 However, during the 2013-2015 fiscal biennium the legislature may
10 transfer to the state general fund such amounts as reflect the excess
11 fund balance in the account.

12 (2) The director must biennially prepare a budget request based
13 on the anticipated costs of administering the business and
14 professions licensing activities listed in subsection (1) of this
15 section, which must include the estimated income from these business
16 and professions fees.

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

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

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