

2021 -- H 6246

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS

Introduced By: Representative Lauren H. Carson

Date Introduced: April 16, 2021

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of the General Laws entitled "COMMERCIAL LAW - GENERAL
2 REGULATORY PROVISIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 58

4 ELECTRONIC BOOK LICENSES TO LIBRARIES AND SCHOOLS

5 **6-58-1. Definitions.**

6 Whenever used in this chapter, unless the context requires otherwise:

7 (1) "Digital audiobook" means a published work that has been converted into a voice
8 recording (narrated) and released in a digital audio file for listening on a computer, tablet, smart
9 phone, or electronic device;

10 (2) "Electronic book" means a text document that has been converted into or published in
11 a digital format, including, but not limited to, all instructional materials utilized by students in
12 public and private schools and educational institutions, that are read on a computer, tablet, smart
13 phone, or electronic device;

14 (3) "Libraries" mean all public and private libraries located at university and college
15 institutions, all public and private libraries with public access, and all public and private libraries
16 located in schools and vocational and technical educational institutions;

17 (4) "Publisher" means one whose business is the manufacture, promulgation, and/or sale
18 of books, audiobooks, journals, magazines, newspapers, or other literary productions including
19 those in digital form consisting of text, narration, imagery or all three (3); and

1 (5) "Reasonable technological protection measures" means any technology that enhances
2 the secure loaning and/or circulation by a library or school of an electronic book or digital
3 audiobook, including:

4 (i) Technology limiting the loan to a single patron at a time, for a limited period of time;

5 (ii) Technology that limits access to only one library patron or student at a time for each
6 acquired copy; and

7 (iii) Technology that prevents any reproduction of copies during the loan period.

8 **6-58-2. License to libraries and schools.**

9 Any publisher who offers a contract or license for acquisition of electronic books and
10 digital audiobooks to the public shall offer to license such books to libraries and to elementary and
11 secondary schools and educational institutions in the state on reasonable terms that would permit
12 the libraries, schools and educational institutions to provide their users and students with access to
13 such electronic books.

14 (1) Such reasonable terms may include:

15 (i) A limitation on the number of users or students to whom the libraries or schools may
16 simultaneously provide access to the electronic books;

17 (ii) A limitation on the number of days the libraries and/or schools may provide a user or
18 student with access to the electronic books; and

19 (iii) The use of technological protection measures that would prevent a user or student
20 from:

21 (A) Maintaining access to the electronic books beyond the access period set forth in the
22 license; and

23 (B) Providing other users with access to the electronic books.

24 (2) Such reasonable terms shall not include a limitation on the number of licenses for
25 electronic books that libraries or schools may purchase on the same date available to the public.

26 **6-58-3. Prohibited provisions.**

27 (a) Any publisher who offers a contract or license for acquisition of electronic books and
28 digital audiobooks to the public in this state shall be governed by Rhode Island law with respect to
29 the contract or license. Contracts or licenses that include any clauses that preclude, limit, or restrict
30 a library or school from the purchase of electronic books or digital audiobooks, or clauses that
31 preclude, limit, or restrict libraries or schools from performing critical functions, including, but not
32 limited to, circulating electronic books or digital audiobooks to patrons or students, and/or making
33 preservation copies, are in violation of Rhode Island public policy and therefore void and
34 unenforceable.

- 1 (b) A contract or license shall contain no provision:
2 (1) Restricting or limiting a library's or school's right to loan/circulate the electronic books
3 and digital audiobooks to patrons using reasonable technological protection measures;
4 (2) Restricting or limiting a library's or school's right to make non-public preservation
5 copies of the electronic book or digital audiobook;
6 (3) Restricting or limiting the use of reasonable technological protection measures for
7 circulating the work to patrons or students; and
8 (4) Restricting the number of licenses for electronic books or digital audiobooks that
9 libraries or schools may purchase on the same date available to the public.
10 (c) The knowing inclusion in a consumer contract of a contract provision violating the
11 prohibitions contained in this section shall constitute an unfair and deceptive trade practice.

12 **6-58-4. Unfair and deceptive trade practice.**

13 A violation of this chapter shall be deemed an unfair and deceptive trade practice within
14 the meaning of chapter 13.1 of this title, and any remedy provided pursuant to chapter 13.1 of this
15 title shall be available for the enforcement of this chapter.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS

1 This act would require publishers to provide electronic book licenses to libraries and
2 schools when a publisher offers to license electronic books and digital audiobooks to the public,
3 and to license such books to all public, private, academic and educational libraries in the state on
4 reasonable terms permitting the libraries and schools to provide their users with access to such
5 electronic books. Any violation of the chapter would be deemed an unfair and deceptive trade
6 practice.

7 This act would take effect upon passage.

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