

HB1092_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business Affairs and Labor.HB17-1092 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 6-13-102, amend
4 (1) as follows:

5 **6-13-102. Scope of article.** (1) (a) This article shall apply 13
6 APPLIES ONLY to THE FOLLOWING:

7 (I) A contract entered into between a performing rights society
8 and a proprietor; even if such society is licensed by the federal
9 communications commission; and

10 (II) INVESTIGATIONS AND NEGOTIATIONS RELATED TO A CONTRACT
11 OR PROSPECTIVE CONTRACT BETWEEN A PERFORMING RIGHTS SOCIETY
12 AND A PROPRIETOR.

13 (b) The rights, remedies, and prohibitions accorded by this article
14 shall be ARTICLE 13 ARE in addition to any other right, remedy, or
15 prohibition accorded by common law, federal law, or the laws of this state
16 and shall DO not be construed to deny, abrogate, or impair any such
17 common-law or statutory right, remedy, or prohibition.

18 **SECTION 2.** In Colorado Revised Statutes, 6-13-103, amend (1)
19 introductory portion, (2), (3), (4) introductory portion, (4)(c)(V), and (5)
20 introductory portion; and add (4)(d) as follows:

21 **6-13-103. Payment of royalties - contract requirements.** (1) A
22 copyright owner or performing rights society may enter into a contract
23 requiring the payment of royalties by a proprietor ONLY if, at least
24 ~~seventy-two hours~~ THREE BUSINESS DAYS before the execution of such
25 THE contract, the following information is provided to the proprietor, in
26 writing:

27 (2) Notwithstanding subsection (1) of this section, a proprietor
28 may, in its sole discretion and without coercion or undue influence,
29 execute a contract for the payment of royalties before the expiration of the
30 ~~seventy-two hour~~ THREE-BUSINESS-DAY review period.

31 (3) A proprietor shall have HAS the right to rescind a contract for
32 the payment of royalties for a period of ~~seventy-two hours~~ THREE
33 BUSINESS DAYS after execution of such THE contract.

34 (4) TO BE ENFORCEABLE, a contract for the payment of the
35 royalties by a proprietor to a copyright owner or PERFORMING RIGHTS
36 society shall MUST:

37 (c) Include at least the following information:



1 (V) Notice of the ~~seventy-two-hour~~ THREE-BUSINESS-DAY
2 rescission period described in subsection (3) of this section.

3 (d) NOT CHARGE A PROPRIETOR ROYALTIES FOR PUBLIC
4 PERFORMANCES, AT THE ESTABLISHMENT, OF NONDRAMATIC MUSICAL
5 WORKS FOR WHICH ANOTHER ENTITY HAS ENTERED INTO A LICENSE WITH
6 THE PERFORMING RIGHTS SOCIETY THAT COVERS THE PERFORMANCES BY
7 THE PROPRIETOR.

8 (5) A copyright owner, A performing rights society, or an agent,
9 REPRESENTATIVE, or employee of a copyright owner or performing rights
10 society shall not:

11 **SECTION 3.** In Colorado Revised Statutes, 6-13-104 amend (2)
12 as follows:

13 **6-13-104. Violations - penalties.** (2) The prevailing party in any
14 action brought under this ~~article~~ ARTICLE 13 shall be awarded reasonable
15 attorney fees. If the prevailing party is a proprietor, ~~such~~ THE proprietor
16 may also recover the reasonable costs of ~~such~~ THE action and treble
17 damages, but in no event shall ~~such~~ THE proprietor be awarded less than
18 one TWO thousand dollars.

19 **SECTION 4.** In Colorado Revised Statutes, add part 2 to article
20 13 of title 6 as follows:

21 PART 2

22 REQUIRED DISCLOSURES

23 **6-13-201. Filing and online publication of contracts and**
24 **royalty schedules.** (1) A PERFORMING RIGHTS SOCIETY SHALL ANNUALLY
25 REGISTER AND FILE WITH THE SECRETARY OF STATE AN ELECTRONIC COPY
26 OF EACH FORM CONTRACT LICENSING THE PUBLIC PERFORMANCE OF THE
27 NONDRAMATIC MUSICAL WORKS TO PROPRIETORS IN THE STATE OF
28 COLORADO, TOGETHER WITH THE APPLICABLE SCHEDULE OF ROYALTY
29 RATES PAYABLE UNDER EACH FORM CONTRACT.

30 (2) A PERFORMING RIGHTS SOCIETY SHALL SHALL ALSO MAKE
31 AVAILABLE, AT NO CHARGE, BOTH THE CONTRACTS AND SCHEDULES OF
32 ROYALTY RATES THAT ARE REQUIRED TO BE FILED WITH THE SECRETARY
33 OF STATE IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION TO ANY
34 PROPRIETOR WITHIN COLORADO VIA A LINK TO THE SOCIETY'S WEBSITE
35 FROM THE SECRETARY OF STATE'S WEBSITE.

36 (3) UPON REQUEST OF THE SECRETARY OF STATE, EACH
37 PERFORMING RIGHTS SOCIETY SHALL PROVIDE TO THE SECRETARY OF
38 STATE INFORMATION ON A PROPRIETOR'S RIGHTS AND RESPONSIBILITIES
39 REGARDING THE PUBLIC PERFORMANCE OF NONDRAMATIC MUSICAL
40 WORKS, AND THE SECRETARY OF STATE SHALL POST THE INFORMATION ON
41 THE SECRETARY OF STATE'S WEBSITE.



1 **6-13-202. Catalog of musical works - publication by**
2 **performing rights society.** (1)(a) A PERFORMING RIGHTS SOCIETY SHALL
3 PUBLISH A LIST ONLINE OF ALL NONDRAMATIC MUSICAL WORKS THE
4 PERFORMING RIGHTS SOCIETY LICENSES FOR PERFORMANCE IN A RETAIL
5 ESTABLISHMENT.

6 (b) TO COMPLY WITH THIS SECTION, THE LIST OF NONDRAMATIC
7 MUSICAL WORKS MUST BE:

8 (I) UPDATED WITHIN THIRTY BUSINESS DAYS AFTER ADDING OR
9 SUBTRACTING A NONDRAMATIC MUSICAL WORK; AND

10 (II) MADE AVAILABLE, WITHOUT CHARGE, TO ANY PROPRIETOR
11 WITHIN COLORADO AND TO THE SECRETARY OF STATE ON A WEBSITE OR
12 USING A SUBSTANTIALLY SIMILAR OR SUPERIOR TECHNOLOGY FOR
13 COMMUNICATING THE INFORMATION, AT NO CHARGE, TO THE PUBLIC.

14 (2) A PERFORMING RIGHTS SOCIETY LICENSING MUSICAL WORKS IN
15 COLORADO SHALL FILE THE ADDRESS OF THE WEBSITE OR SUBSTANTIALLY
16 SIMILAR OR SUPERIOR TECHNOLOGY WITH THE SECRETARY OF STATE, WHO
17 SHALL PUBLISH THE WEBSITE ADDRESS OF THE LIST PUBLISHED IN
18 ACCORDANCE WITH SUBSECTION (1)(a) ON THE SECRETARY OF STATE'S
19 WEBSITE OR USING A SUBSTANTIALLY SIMILAR OR SUPERIOR TECHNOLOGY
20 FOR COMMUNICATING THE INFORMATION, AT NO CHARGE, TO THE PUBLIC.

21 **6-13-203. Violations.** (1) A PERFORMING RIGHTS SOCIETY SHALL
22 NOT ENTER INTO A CONTRACT THAT IS SUBJECT TO THIS ARTICLE 13
23 WITHOUT EITHER:

24 (a) PUBLISHING THE DISCLOSURES REQUIRED BY THIS PART 2; OR

25 (b) MAKING THE FILINGS REQUIRED BY THIS PART 2.

26 **6-13-204. Royalties and catalog of musical works - material**
27 **information.** THE CONTRACTS AND SCHEDULE OF ROYALTIES SUBMITTED
28 TO THE SECRETARY OF STATE IN ACCORDANCE WITH SECTION 6-13-201
29 AND THE LIST OF ALL NONDRAMATIC MUSICAL WORKS PUBLISHED ONLINE
30 IN ACCORDANCE WITH SECTION 6-13-202 CONSTITUTE MATERIAL
31 INFORMATION FOR PURPOSES OF SECTION 6-1-105 (1)(u).

32 **SECTION 5.** In Colorado Revised Statutes, 24-21-104, **amend**
33 (1)(a) as follows:

34 **24-21-104. Fees of secretary of state.** (1) (a) (I) ~~It is the duty of~~
35 ~~The secretary of state to~~ SHALL charge fees, which shall be determined
36 and collected pursuant to subsection (3) of this section, for:

37 (A) Filing each body corporate and politic document; for

38 (B) Filing each facsimile signature; for

39 (C) Each notary public's commission; for

40 (D) Each foreign commission; for

41 (E) Each official certificate; for

1 (F) Administering each oath; ~~for all~~
2 (G) EACH FILING MADE IN ACCORDANCE WITH SECTIONS 6-13-201
3 AND 6-13-202;
4 (H) ANY transcripts or copies of papers and records, computer
5 tapes, microfilm, or microfiche; and for
6 (I) ANY other papers officially executed and other official work
7 that ~~may be~~ IS done in the secretary of state's office.
8 (II) The secretary of state shall not deliver any ~~such~~ commission,
9 file for record any certificate; or do any ~~such~~ OTHER official work until
10 the APPLICABLE fee ~~or sum so fixed to be collected therefor~~ FOR THE
11 WORK has first been paid.
12 (III) At the time of service of any subpoena upon the secretary of
13 state or any of his or her deputies or employees, a fee of fifty dollars and
14 a fee of ten dollars for meals and mileage at the rate prescribed for state
15 officers and employees in section 24-9-104 for each mile actually and
16 necessarily traveled in going to and returning from the place named in the
17 subpoena shall be paid to the department of state cash fund. If the person
18 named in the subpoena is required to attend the place named in the
19 subpoena for more than one day, ~~there~~ THE SUM OF FORTY-FOUR DOLLARS
20 FOR EACH DAY OF ATTENDANCE shall be paid, in advance, to the
21 department of state cash fund ~~the sum of forty-four dollars for each day~~
22 ~~of attendance~~ to cover the expenses of the person named in the subpoena.
23 **SECTION 6. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the
28 state constitution against this act or an item, section, or part of this act
29 within such period, then the act, item, section, or part will not take effect
30 unless approved by the people at the general election to be held in
31 November 2018 and, in such case, will take effect on the date of the
32 official declaration of the vote thereon by the governor."

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