

Senate File 2230 - Introduced

SENATE FILE 2230

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A BILL FOR

1 An Act relating to contracts between a publisher and a library
2 for electronic literary materials, and providing civil
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 554H.1 Definitions.

2 For purposes of this section, unless the context otherwise
3 requires:

4 1. "*Aggregator*" means a person in the business of licensing
5 access to electronic literary material collections, including
6 from multiple publishers.

7 2. "*Borrower*" means a person, including another library, to
8 whom a library loans media of any type.

9 3. "*Digital audiobook*" means a sound recording of a reading
10 of a literary production that has been converted into, or
11 published in, a digital audio file that may be listened to on
12 an electronic device.

13 4. "*Electronic book*" means a text document converted into,
14 or published in, a digital format that may be read on an
15 electronic device.

16 5. "*Electronic literary material*" means a digital audiobook
17 or electronic book.

18 6. "*Library*" means a public library, a public school
19 library, a tribal library, an academic library, a research
20 library, public archives, or the state library.

21 7. "*Loan*" means the transmission by a library to a borrower
22 of a copy of electronic literary materials and the deletion of
23 the copy of the electronic literary materials by the library at
24 a time determined by the library.

25 8. "*Publisher*" means a person in the business of
26 manufacturing, promulgating, licensing, or selling books,
27 audiobooks, journals, magazines, newspapers, or other
28 literary productions, including electronic literary materials.
29 "*Publisher*" includes an aggregator who enters into a contract
30 with a library for the purpose of providing materials for
31 purchase or license from a publisher.

32 Sec. 2. NEW SECTION. 554H.2 Scope.

33 This chapter shall apply to a contract or license agreement
34 offered, entered into, or renewed by a publisher for the
35 license of electronic literary materials to a library in the

1 state on or after July 1, 2024.

2 Sec. 3. NEW SECTION. 554H.3 Contract or license
3 requirements.

4 1. A contract or license agreement between a publisher and
5 a library shall not preclude, limit, or restrict the library
6 from performing customary operational or lending functions, and
7 shall not contain a provision that does any of the following:

8 a. Prohibits the library from loaning certain electronic
9 literary materials, including through an interlibrary loan
10 system.

11 b. Restricts the length of time a library may loan certain
12 electronic literary materials, or restricts the number of times
13 the library may loan certain electronic literary materials over
14 the course of the license agreement.

15 c. Limits the number of electronic literary material
16 licenses the library may purchase on the same date the
17 electronic literary material is made available for purchase by
18 the public.

19 d. Prohibits the library from making nonpublic preservation
20 copies of electronic literary materials.

21 e. Restricts the library from disclosing the terms of the
22 contract or license agreement to any other library in the
23 state.

24 f. Restricts the duration of the contract or license
25 agreement unless the publisher has also offered the library a
26 contract or license agreement that is any of the following:

27 (1) Based on a pay-per-use model.

28 (2) Provides for the perpetual public use of the electronic
29 literary material upon commercially reasonable terms in
30 consideration of the library's mission.

31 g. Requires the library to violate section 22.7.

32 2. A contract or license agreement between a publisher and a
33 library may require any of the following:

34 a. A limitation on the number of borrowers the library
35 may allow to have simultaneous access to certain electronic

1 literary materials.

2 *b.* The library's reasonable use of a technological
3 protection measure that prevents a borrower from doing any of
4 the following:

5 (1) Maintaining access to certain electronic literary
6 materials beyond the loan period specified in the license.

7 (2) Providing another person with access to certain
8 electronic literary materials.

9 Sec. 4. NEW SECTION. 554H.4 **Enforcement — penalties.**

10 If the attorney general has reasonable belief that a
11 publisher is in violation of this chapter, the attorney general
12 has the sole authority to bring civil action to provide for all
13 of the following:

14 1. Enjoinment of further violations by the publisher.

15 2. Enforcement of compliance with this chapter.

16 3. Assessment of civil penalties in an amount not more than
17 one hundred thousand dollars.

18 4. Other remedies permitted under law.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to contracts between a publisher and a
23 library for electronic literary materials.

24 The bill prohibits a contract or license agreement between
25 a publisher and a library from precluding, limiting, and
26 restricting the library from performing customary operational
27 or lending functions. The contract or license agreement
28 shall not contain a provision that prohibits the library from
29 loaning electronic literary material (material); restricts
30 the number of times the library may loan material over the
31 course of the license agreement; limits the number of material
32 licenses the library may purchase on the same date the material
33 is made available for purchase by the public; prohibits the
34 library from making nonpublic preservation copies of material;
35 restricts the library from disclosing the terms of the contract

1 or license agreement to another library in the state; restricts
2 the duration of the contract or license agreement unless the
3 publisher has also offered the library a contract or license
4 agreement that is either based on a pay-per-use model or
5 provides for the perpetual public use of the material; and
6 requires the library to violate the provisions of Code section
7 22.7. "Borrower", "electronic literary material", "library",
8 "loan", "loan period", and "publisher" are defined in the bill.

9 The bill authorizes a contract or license agreement between
10 a publisher and a library to limit the number of borrowers the
11 library may allow to have simultaneous access to material. The
12 bill also authorizes a contract or license agreement between a
13 publisher and a library to require the library's reasonable use
14 of a technological protection measure that prevents a borrower
15 from maintaining access to material beyond the loan period
16 specified in the license, or from providing another person with
17 access to material.

18 The bill authorizes the attorney general, upon reasonable
19 belief that a publisher is in violation of the bill, to bring
20 civil action to enjoin further violations by the publisher,
21 enforce compliance with the bill, assess a civil penalty not to
22 exceed \$100,000 per violation of the bill, and to obtain other
23 remedies permitted under law.