STATE OF NEW YORK

5837--B

2021-2022 Regular Sessions

IN ASSEMBLY

February 26, 2021

Introduced by M. of A. JEAN-PIERRE, LAVINE, JENSEN -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring publishers to offer licenses for electronic books to libraries under reasonable terms

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new section 399-nn to read as follows:

§ 399-nn. Electronic book licenses. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "electronic book" means a text document that has been converted into or published in a digital format that is read on a computer, tablet, smart phone, or electronic device; and

(b) "publisher" means one whose business is the manufacture, promulgation, and sale of books, journals, or other literary productions including those in digital form consisting of text, imagery or both.

2. Any publisher who offers to license electronic books to the public shall offer to license such books to libraries in the state on reasonable terms that would permit the libraries to provide their users with access to such electronic books.

3. (a) Such reasonable terms shall include:

(i) a limitation on the number of users to whom the libraries may simultaneously provide access to the electronic books;

(ii) a limitation on the number of days the libraries may provide a user with access to the electronic books; and

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD04861-05-1

(iii) the use of technological protection measures that would prevent a user from (A) maintaining access to the electronic books beyond the access period set forth in the license, and (B) providing other users with access to the electronic books.

(b) Such reasonable terms shall not include a limitation on the number of licenses for electronic books libraries may purchase at the same date available to the public.

4. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York, to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violations, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than five hundred dollars for the initial offense, and the second offense and any offense thereafter shall be punishable by a civil penalty not to exceed one thousand dollars.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to contracts entered into, renewed, modified, or amended on or after such effective date.