

# STATE OF NEW YORK

2890--B

2021-2022 Regular Sessions

## IN SENATE

January 26, 2021

Introduced by Sens. MAY, BROOKS, GAUGHRAN, HARCKHAM, JORDAN, MYRIE, RIVERA, RYAN, SEPULVEDA, SERRANO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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:

1 Section 1. The general business law is amended by adding a new section  
2 399-nn to read as follows:

3 § 399-nn. Electronic book licenses. 1. For the purposes of this  
4 section, the following terms shall have the following meanings:

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

8 (b) "publisher" means one whose business is the manufacture, promulga-  
9 tion, and sale of books, journals, or other literary productions includ-  
10 ing those in digital form consisting of text, imagery or both.

11 2. Any publisher who offers to license electronic books to the public  
12 shall offer to license such books to libraries in the state on reason-  
13 able terms that would permit the libraries to provide their users with  
14 access to such electronic books.

15 3. (a) Such reasonable terms shall include:

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

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

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

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

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

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

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