
A BILL FOR AN ACT

RELATING TO LICENSING OF ELECTRONIC LITERARY MATERIAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **CONTRACT AND LICENSE AGREEMENTS FOR ELECTRONIC BOOKS**

6 § -1 **Definitions.** For purposes of this chapter:

7 "Aggregator" means any person in the business of licensing
8 access to electronic literary material collections that include
9 electronic literary material from multiple publishers.

10 "Borrower" means any person or organization, including
11 another library, to whom a library loans a copy of electronic
12 literary material.

13 "Digital audiobook" means a sound recording of a reading of
14 any literary production, that has been converted into or
15 published in a digital audio file that may be listened to on a
16 computer or portable electronic device.



1 "Electronic book" means a text document that has been
2 converted into or published in a digital format that may be read
3 on a computer or portable electronic device.

4 "Electronic literary material" means any digital audiobook
5 or electronic book.

6 "Library" includes public libraries and public elementary
7 school or secondary school libraries.

8 "Literary monograph" means a literary work that is
9 published in one volume or a finite number of volumes.

10 "Loan" means the creation and transmission by a library to
11 a borrower of a copy of any electronic literary material and the
12 deletion of that copy upon the expiration of the loan period.

13 "Loan period" means the period of time commencing with the
14 creation and transmission by a library to a borrower of a copy
15 of any electronic literary material and concluding with the
16 deletion of that copy.

17 "Portable electronic device" means any self-contained
18 electronic device for personal use for communicating, reading,
19 viewing, listening, playing video games or computing, including
20 but not limited to a mobile telephone, tablet computer,
21 electronic book reader, or other similar device.



1 "Publisher" means any person in the business of the
2 manufacturing, promulgation, license, or sale of books,
3 audiobooks, journals, magazines, newspapers, or other literary
4 productions, including those in the form of electronic literary
5 materials. "Publisher" includes any aggregator who enters into
6 a contract with any library for the purpose of providing
7 materials for purchase or license from any publisher.

8 "Technological protection measure" means any technology
9 that enhances the security of loaning or circulating electronic
10 literary materials by a library.

11 "Virtually" means transmitted to receiving parties via the
12 Internet in such a way that the transmission appears in front of
13 the receiving parties on a computer, tablet, smartphone, or
14 electronic device.

15 **§ -2 Contracts between publishers and libraries. (a)**

16 Any contract between a publisher and a library to license
17 electronic literary materials to the public in the State is
18 governed by state law.

19 (b) No contract or license agreement entered into between
20 any publisher and any library shall:



(1) Preclude, limit, or restrict the library from performing customary operational functions by including any provision that precludes, limits, or restricts:

(A) The library from licensing electronic literary materials from publishers;

(B) The library's ability to employ any technological protection measures necessary to loan electronic literary materials;

(C) The library's right to make preservation copies of the electronic literary materials; or

(D) The library's right to loan electronic literary materials via interlibrary loan systems;

(2) Preclude, limit, or restrict the library from performing customary lending functions by including any provision that:

(A) Precludes, limits, or restricts the library from loaning electronic literary materials to borrowers;



1 (B) Restricts the library's right to determine loan
2 periods for licensed electronic literary
3 materials;

4 (C) Requires the library to acquire a license for any
5 electronic literary material at a price greater
6 than that charged to the public for the same
7 item;

8 (D) Restricts the number of licenses for electronic
9 literary materials that the library may acquire
10 after the same item is made available to the
11 public;

12 (E) Requires the library to pay a cost-per-
13 circulation fee to loan electronic literary
14 materials, unless substantially lower in
15 aggregate than the cost of purchasing the item
16 outright;

17 (F) Restricts the number of times the library may
18 loan any electronic library material over the
19 course of the contract or license agreement if
20 the contract or agreement also imposes a time-



1 based limitation on the duration of the library's
2 license to such materials; or

3 (G) Restricts or limits the library's ability to
4 virtually recite text and display artwork of any
5 materials to library patrons such that the
6 materials would not have the same educational
7 utility as when recited or displayed at a library
8 facility;

9 (3) Restrict the library from disclosing the terms of the
10 contract or license agreement to any other library in
11 the State; or

12 (4) Require, coerce, or enable the library to violate any
13 law or rule protecting the confidentiality of a
14 patron's library records.

15 § -3 Remedies. (a) An offer to license electronic
16 literary materials to a library that includes a provision
17 prohibited under section -2(b) constitutes an unfair and
18 deceptive practice within the meaning of section 480-2 and shall
19 be deemed void and unenforceable pursuant to section 480-12.
20 Any remedy provided pursuant to sections 480-3.1 and 480-15.1
21 shall be available for the enforcement of this chapter. Actions



1 for relief pursuant to this chapter may be brought by libraries,
2 library officers, or borrowers. Parties shall be enjoined from
3 enforcing license agreements that include a provision prohibited
4 under section -2(b).

5 (b) A contract to license electronic library materials to
6 a library that includes provisions prohibited under
7 section -2 are unconscionable within the meaning of section
8 490:2-302 and shall be deemed void and unenforceable. Any
9 waiver of the provisions of this chapter is contrary to public
10 policy and shall be deemed void and unenforceable."

11 SECTION 2. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

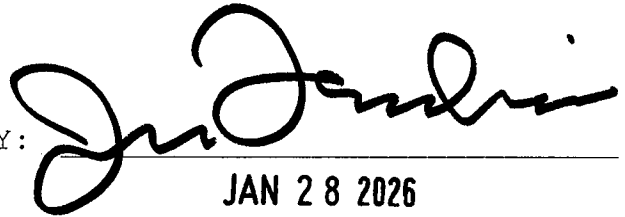
20 SECTION 4. This Act shall take effect upon its approval;
21 provided that enforcement of its provisions shall not commence



1 until at least one other state enacts a law similar in purpose
2 to this Act regulating contracts for the licensing of electronic
3 literary materials to libraries.

4

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John Dendrin", written over a horizontal line.

JAN 28 2026



H.B. NO. 2577

Report Title:

Electronic Literary Materials; Licensing

Description:

Establishes limits and restrictions on licensing contracts between libraries and publishers for electronic literary materials and provides options for remedy. Suspends enforcement until at least one other state enacts a similar law.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

