TITLE 48
MONOPOLIES AND TRADE PRACTICES

CHAPTER 13
MUSIC LICENSING AND COPYRIGHT ENFORCEMENT ACT

48-1301. SHORT TITLE. This act shall be known and may be cited as the "Music Licensing and Copyright Enforcement Act of 1996."

[48-1301, added 1996, ch. 330, sec. 1, p. 1124.]

48-1302. DEFINITIONS. As used in this chapter:

(1) "Copyright owner" means the owner of a copyright of a nondramatic musical or similar work recognized and enforceable under the copyright laws of the United States pursuant to title 17 of the United States Code, P.L. 94-553 (17 U.S.C. sec. 101 et seq.).

(2) "Nondramatic" means the public performance of a recorded, broadcast, or live musical work; except that "nondramatic" shall not mean the performance of a dramatic work including a play.

(3) "Performing rights society" means an association or corporation that licenses the public performances of nondramatic musical works on behalf of copyright owners, such as the American society of composers, authors and publishers (ASCAP), broadcast music, inc. (BMI), and SESAC, Inc.

(4) "Proprietor" means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or entertainment facility or any other similar place of business or professional office located in the state in which the public may assemble and in which nondramatic musical works or similar copyrighted works may be performed, broadcast or otherwise transmitted for the enjoyment of members of the public there assembled.

(5) "Royalty" or "royalties" means the fees payable to a copyright owner or performing rights society for the public performance of nondramatic musical or other similar works.

[48-1302, added 1996, ch. 330, sec. 1, p. 1124.]

48-1303. NOTICE AND INFORMATION TO BE PROVIDED. No performing rights society shall enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless it agrees to provide to the proprietor upon request at the proprietor's place of business, by electronic means or otherwise:

(1) Information as to whether specific copyrighted musical works are in its repertoire; and

(2) The opportunity to review the most current available list of the performing rights society's members or affiliates.

[48-1303, added 1996, ch. 330, sec. 1, p. 1124.]

48-1304. ROYALTY CONTRACT REQUIREMENTS. Every contract for the payment of royalties between a proprietor and a performing rights society executed, issued or renewed in the state on or after July 1, 1996 shall be:

(1) In writing;

(2) Signed by the parties;

(3) Written to include, at a minimum, the following information:

(a) The proprietor's name and business address and the name and location of each place of business to which the contract applies;
(b) The name of the performing rights society;
(c) The duration of the contract; and
(d) The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of the rates for the duration of the contract.

[48-1304, added 1996, ch. 330, sec. 1, p. 1124.]

48-1305. PROHIBITED CONDUCT. No performing rights society or any agent or employee thereof shall:
(1) Enter onto the premises of a proprietor's business for the purpose of discussing or inquiring about a contract for the payment of royalties with the proprietor or his employees, without first identifying himself to the proprietor or his employees and making known to them the purpose of the discussion or inquiry;
(2) Engage in any coercive conduct, act or practice that is substantially disruptive to a proprietor's business;
(3) Use or attempt to use any unfair or deceptive act or practice in negotiating with a proprietor; or
(4) Fail to comply with or fulfill the obligations imposed by sections 48-1303 and 48-1304, Idaho Code. However, nothing in this chapter shall be construed to prohibit a performing rights society from conducting investigations to determine the existence of music use by a proprietor or informing a proprietor of the proprietor's obligation under the copyright laws of the United States pursuant to title 17 of the United States Code, P.L. 94-553 (17 U.S.C. sec. 101 et seq.).

[48-1305, added 1996, ch. 330, sec. 1, p. 1125.]

48-1306. REMEDIES -- INJUNCTION. Any person who suffers a violation of this chapter may bring an action to recover actual damages and reasonable attorney's fees and seek an injunction or any other remedy available at law or in equity.

[48-1306, added 1996, ch. 330, sec. 1, p. 1125.]

48-1307. REMEDIES CUMULATIVE. The rights, remedies and prohibitions contained in this chapter shall be in addition to and cumulative to any other right, remedy or prohibition accorded by common law, federal law or the statutes of the state, and nothing contained in this chapter shall be construed to deny, abrogate or impair any common law or statutory right, remedy or prohibition.

[48-1307, added 1996, ch. 330, sec. 1, p. 1125.]

48-1308. EXCEPTIONS. This chapter shall not apply to contracts between copyright owners or performing rights societies and broadcasters licensed by the federal communications commission, or to contracts with cable operators, programmers or other transmission services. Nor shall this chapter apply to musical works performed in synchronization with an audio/visual film or tape.

[48-1308, added 1996, ch. 330, sec. 1, p. 1125.]