

wise appropriated, the sum of Eighty Thousand Dollars (\$80,000.00), or so much thereof as is necessary, and the balance not expended shall revert to the General Fund of the Territory, to be expended by the Board of Education of the Territory of Alaska, for Transportation of Pupils, and for no other purpose as provided under Sub-section (h) of Section 1289 of the Compiled Laws of Alaska 1933, for the biennium ending June 30, 1941, and to pay any deficiencies arising from the appropriation for said school transportation service during the biennium ending June 30, 1939.

How expended.

Sub-section (b). Provided that ten per cent of said sum must not be obligated on contracts but can be used to pay open-account current transportation costs during the biennium.

Emergency.

Section 2. An emergency is hereby declared to exist and this Act shall take effect immediately upon its passage and approval.

Approved February 15, 1939.

CHAPTER 13.

AN ACT

[S. B. 2]

In aid of the Federal Copyright Laws, to assist in effectuating their true intent and their enforcement in the Territory of Alaska by removing and declaring illegal certain monopolistic abuses and activities wrongfully practiced under the guise of copyrights within the Territory by price-fixing combinations, monopolies, and pools; to enforce the laws applicable to Alaska prohibiting price-fixing monopolies and combinations in restraint of commerce and trade; providing penalties for combining rights granted by the copyright laws where the effect of such combination results in the use of copyright privileges as instru-

mentalities of oppression and extortion within the Territory in violation of law and encouraging the rendition, creation and production of copyrighted works among the school children and citizens of the Territory of Alaska; encouraging the marketing and acceptance of copyrighted works created by the citizens of this Territory; repealing certain acts; creating a Territorial Anti-Monopoly Board for a particular function to be exercised only in the event of abuses and violations hereof; defining its duties, and the jurisdiction and duties of courts of record, the duties of the district attorneys, territorial auditor, the territorial treasurer and the United States marshals of the Territory; and providing for the appointment of a receiver in certain instances; defining certain terms; providing for service of process on non-residents; prohibiting certain acts; and providing penalties for violation hereof, and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. It shall be unlawful for any person who, without the consent of the owner thereof, shall cause ^{Copyrights} ~~protected.~~ to be publicly performed for profit any dramatic composition, or dramatic musical composition commonly called an opera, or other copyrighted works, or any substantial part thereof, which has been copyrighted under the laws of the United States, or for any person to knowingly participate in the performance or representation of any substantial part thereof, or by knowingly selling a substantial copy or any substantial part thereof.

Section 2. It shall be unlawful for two or more persons holding or claiming separate copyrighted works ^{Pool price fixing} ~~prohibited.~~ under the copyright laws of the United States, either within or without the Territory, to band together, or to pool their interests for the purpose of fixing the prices on the use of said copyrighted works, or to pool their separate interests or to conspire, federate, or join together, for the purpose of collecting fees in this Territory or to issue blanket licenses in this Territory for the right to commercially use or perform publicly their separate copyrighted works: Provided, however, ^{Proviso.} such persons may join together if they issue licenses

Proviso.

on rates assessed on a per piece system of usage: Provided, further, This Act shall not apply to any one individual author or composer or copyright holder or owner who may demand any price or fee, he or she may choose for the right to use or publicly perform his or her individual copyrighted work or works: Provided, further, such per piece system of licensing must not be in excess of any per piece system in operation in other states where any group or persons affected by this Act does business, and all groups and persons affected by this Act, are prohibited from discriminating against the citizens of this Territory by charging higher and more inequitable rates per piece for music licenses in this Territory than in other states: Provided, further, Where the owner, holder, or person having control of any copyrighted work has sold the right to the single use of said copyrighted work, where its sole value is in its use for public performance for profit, and has received any consideration therefor, either within or without the Territory, then said person or persons shall be deemed to have sold and parted with the right to further restrict the use of said copyrighted work or works.

Works or compositions and prices to be filed.

Contents of report, fee for filing, etc.

Section 3. In the event two or more persons holding separate copyrighted musical works, or any rights flowing therefrom, whether by assignment, agency agreements, or by any form of agreement, pool their interests, or combine, or conspire, federate, or join together in any way, whether for a lawful purpose or otherwise, a complete list of their copyrighted works or compositions shall be filed once each year in the office of the Auditor of the Territory of Alaska, together with a list of the prices charged or demanded for their various copyrighted works; no payment or filing fee shall be required by the auditor, and said persons, corporations, or association, foreign or domestic, shall state therein under oath, that said list is a complete catalogue of the titles of their claimed compositions,

whether musical or dramatic or of any other classification and in addition to stating the name and title of the copyrighted work it shall recite therein the date each separate work was copyrighted, and the name of the author, the date of its assignment, if any, or the date of the assignment of any interest therein, if any, and the name of the publisher, the name of the present owner, together with the addresses and residences of all parties who have at any time had any interest in such copyrighted work. The auditor shall require two copies of said list, one of which he shall keep on file, the other shall be forwarded to the Territorial Treasurer.

Section 4. The foregoing list of names and titles, ^{Reports available to public.} provided for in the preceding section, shall be made available by the auditor to all persons for examination, in order that any user of copyrighted works in this Territory may know the rights and the titles to such copyrighted works as may be claimed by any of said combinations, pools, associations, or persons as aforesaid; said lists shall be prepared so that all persons may avoid using said copyrighted compositions, if they so desire, and may avoid conflict therewith, and avoid committing innocent infringements of said works; and in order to further effectuate the copyright laws of the United States the auditor shall, if he deems it ^{Auditor may publish.} necessary to protect the citizens of this Territory from committing innocent violations of the copyright laws of the United States, publish such list once each year in a newspaper of general circulation, in order that all citizens of the Territory may respect any and all individual rights granted by the United States copyright laws.

Section 5. No person, corporation, or association, domestic or foreign, whether doing business in this <sup>Report filed—
By whom.</sup> Territory as hereinafter defined or not, shall be absolved from the foregoing duty of filing said list of

holdings as required in the preceding sections of this Act, if their music or copyrighted works are used commercially in this Territory, or have been used herein, whether originating from a point within the Territory or from without, and as long as any rendition thereof is received or heard within the Territory, or is intended to be so received by the originator of any musical program: Provided, however, Any individual owner of a copyrighted work or works, not a party to or not connected in any way with any pool, conspiracy, combination, or groups, or association of persons, as prohibited by this Act, need not file any such list.

Proviso.

Section 6. It is hereby declared that the production and creation of music and the commercial use of music and of copyrighted works within this Territory whether originating at a point from within or without the Territory as long as the same shall be rendered and publicly received within the confines of this Territory, whether mechanically or by radio communication, is a business clothed and affected with the public interest, and the adult educational advantages engendered by the public use of music and in its creation, makes this business one of public necessity, and necessary for the education and training of the youth of this Territory; that many abuses are practiced under a false guise of Federal protection which only the Territory with its police power can easily and lawfully restrain, and in order to prohibit, discourage, and prevent monopolistic practices, and to prevent extortion, to encourage free bargaining between the citizens of this Territory with each other and with those without the Territory, and in order to give greater effect to the constitutional provisions relating to monopoly and price-fixing, and in the general interest of the public, therefore, the legislature in the interest of the peace and dignity of the Territory, in the interest of good morals and the general welfare of the people of this Territory, and for greater educational advantages to the public,

Purpose of Act.

declares that said business shall be subject to the police power and reasonable regulation of the Territorial government, and such police and regulating power shall be administered by the courts and other officials of this Territory in a manner consistent with, in aid of, and never in conflict with, the copyright laws of the United States. The provisions of this Act, and the administration thereof, shall at all times effectuate the enforcement, the true intent, and meaning of the United States copyright laws in order to prevent abuses from being practiced within this Territory from points within or from points without the Territory, by any individual, corporation, or organizations, who attempts to use the Federal courts as innocent instrumentalities in the furtherance of any systematic campaign or scheme designed to illegally fix prices for the commercial use of copyrighted works in this Territory through the use of extortionate means and terrorizing practices based on threats of suits, and an abuse of both Territorial and Federal process, all of which are declared to be in violation of this Act and of the Territorial laws; it is further declared that any person or persons, or combines, as aforesaid, who shall violate this Act shall be deemed to have used its property within this Territory in such way that the same shall have acquired a legal situs, analogous to the situs of other personal property within the Territory, even though separate from the domicile and residence of the owner: Provided, further, The legal situs of any copyrighted work is co-extensive about the Territory and a copyrighted work used or sold for public use or public performance for profit, if intended to be heard from a point without the Territory or from a point within the Territory, is hereby declared to be a commercial commodity, and its legal situs is hereby declared to be within the Territory of Alaska.

Section 7. All persons, groups, corporations, associations, foreign or domestic, violating this chapter, shall ^{Doing business} ~~effect of.~~

be deemed to have been doing business within this Territory and amenable to the process of the Territorial courts, when any such persons, combinations, or groups shall have issued licenses either from within or from without the Territory, for the privilege of using commercially and publicly any copyrighted work or works pooled in a common group or entity, or when any of the functions of said entity, organization, pool, or combine, is or has been performed in this Territory; and the business of spying upon and the warning of users of the copyrighted works of such combinations, in addition to the presence within the Territory of such persons, and the activities of such persons or their agents at any time or occasion for the detection of infringements within this Territory shall be conclusive evidence that such combinations and persons, even though non-residents, have accepted the privilege of doing business within this Territory, and such persons, if they abide by the provisions of this Act, shall be granted the privilege of conducting business within this Territory in a legal manner, and may invoke the benefits of the Territorial government and its political subdivisions in their behalf, and they may use all of the privileges available to the citizens of this Territory in general, and the use at any time of any general privilege available to any citizen of this Territory, by any of such agents, their attorneys, or representative, or investigator, or by any aider and abettor, or any nonresident person, group, entity, or combination as aforesaid, shall be deemed to be an acceptance of the provisions of this Act; and all licenses of any violator of this Act shall be deemed as aiders and abettors of said persons and subject to the provisions of this Act unless they forthwith indicate their obedience herewith; and the acceptance of the general privileges of the Territory of Alaska by any nonresident copyright holder or owner, or combination, defendant, or person, or organization of any kind, or entity, through an investigator, attorney, agent,

representative, or through any aider or abettor as herein defined, and the acceptance by such persons of the rights, police protection, or of any general privilege conferred by the law of this Territory to any of its citizens, including the use of the roads and highways, or the privileges of any of its political subdivisions, as evidenced by their presence within the Territory at any time, shall be deemed equivalent to and construed to be an appointment by such nonresident or nonresidents, as the case may be, of the auditor of the Territory of Alaska, to be his or their true and lawful attorney upon whom may be served all summons and processes against him or them and growing out of a violation of this Act, in which said nonresident may be involved, and said acceptance of the privileges of this Territory, as aforesaid, shall be a signification of his or their agreement that any summons or process against him or them which is so served shall be of the same legal force and validity as if served on him or them personally within the Territory of Alaska. Service of such summons or process shall be made by leaving a copy thereof with a fee of three dollars (\$3.00) with the auditor of the Territory, or in his office, and such service shall be sufficient and valid personal service upon any such nonresident defendant, copyright holder or owner, persons, or defendants, combination, entity, or organization, as aforesaid: Provided, That notice of such service and a copy of the summons of process shall be forthwith sent by registered mail requiring personal delivery, by the prosecutor bringing any action under this Act, to any defendant at his last known address, and the defendant's return receipt and the prosecutor's affidavit of compliance herewith are appended to the process and entered as a part of the return thereof. Provided, further, The Auditor shall keep a record of all such summons and process which shall show the day and time of service; and valid personal service shall thus be had on non-^{Service on non-residents.}

resident persons or individuals, entities, firms, or corporations violating this Act.

Injunctions provided for.

Section 8. In the event any person, or groups of persons, or any combination or pool as aforesaid, whether a nonresident corporation, person, or an association, foreign or domestic, refuse to abide by the provisions hereof, or attempt to evade or render ineffectual the true enforcement of any provision of this Act, then the District Attorney of any Division where complaint is made of any violation, shall institute injunction proceedings against said persons in the District Court, and valid personal service may be had upon any nonresident defendant as set forth in the preceding section; and the court shall enjoin all persons from violating the provisions of this Act and the laws prohibiting price-fixing, monopolies, and combinations, and all copyrighted works and the public performance rights thereto when sold or used for profit are hereby declared to be a commercial commodity, and all persons, aiders and abettors, and agents, shall be enjoined by the court from aiding or furthering in any way a continuation of any violation of this Act, either by the payment of money to said defendants or in any way; and if any defendant or defendants persist in defying the judgment of the court, the court shall, in order to effectuate its judgment and orders, order three (3) days' notice to be given said defendant or defendants, as the case may be, by having a copy of such notice served on the auditor as heretofore provided if defendants are without the Territory, or served personally if within the Territory, and have the same published in some daily paper in the Territory of general circulation, and at the end of said period, if any defendant or defendants refuse to obey the order of the court, then the court shall appoint the U. S. Marshal as receiver for the copyrighted works and property of defendants, tangible or intangible, and of all other effects and monies derived therefrom, and the receiver shall take over and preserve

Who enjoined.

Receiver appointed—in what cases.

the commercial rights to all of said copyrighted works, together with such other property of any defendant,^{Duties of receiver.} combination, pool, corporation, or entity through which they are acting, that he can locate within the Territory, and the receiver shall administer the same under the direction of the court, and said receivership shall be considered only as an incident to the main injunction suit of the prosecutor, and for the purpose of enforcing the court's orders; the same receiver shall seize the copyrighted works of all of the copyright holders and owners in said defendant combination, including all of the rights to suits for infringement and damages in both Territorial and Federal courts, and all choses of action, and all sums due on contracts and licenses, and hold the same subject to the order of the court; and all persons holding licenses or contracts with any defendant combination or entity, shall pay the fees and sums due thereon to the receiver for such time as the court may need to effectuate the provisions of this Act, and to compel any defendant to abide herewith;^{Proviso.} Provided, Any sums paid on licenses violating this Act shall only be continued in the court's discretion or until such time as the court can award defendants complete and full due process of law before entering a final order thereon, or until such time as a legal and equitable system of licensing can be determined according to the subsequent provisions of this Act: Provided, further, In the event any defendant or defendants attempt to withdraw their copyright works or property from the Territory in order to violate and render this Act or the court's orders ineffectual, or to deprive the citizens of this Territory of such commodity, or to hamper the enforcement of any provision of this Act, or to injure any citizen or user of music in any way, then the court shall immediately order the receiver to compile a complete list of all of the copyrighted works of said defendants which have been used in this Territory, and the court shall then convene the Terri-^{Function of anti-monopoly board.}

torial Anti-Monopoly Board, as herein-now created, consisting of the Territorial Treasurer and Territorial Auditor, and said board shall meet at the Territorial capital at Juneau, and the District Judge hearing the cause shall be an advisory member of said board; and said board, of which the Territorial Treasurer shall be chairman, shall have only one function, the discouragement of price-fixing and monopolies, and the court shall then submit to said board the single question of the establishment of license rates for the use of these copyrighted works controlled by the defendants so proceeded against; and for the purpose of aiding in the abolition of monopolies and price-fixing, and preventing violations of this Act, the board shall determine a fair and just rate that the receiver should charge for the single and separate public performances for profit of each copyrighted work or works of said defendants, on a per piece system and basis of licensing, and the court shall not be deemed thereby to have divested itself of any of its jurisdiction by so doing; after determining such rate, the said Anti-Monopoly Board shall immediately advise the receiver of its findings, and of its fair rate, and the same shall be filed of record in the cause, and the receiver may then, if said finding is approved by the court, issue licenses for the use of said music at such approved rate on a basis of so much money per each time a piece of music is played or used in a public performance for profit; that said property shall be thus administered by the receiver for a period of one year, or until such time as the defendants, or the individual copyright owners of any combination so proceeded against take oath that they will abide by the rulings of the court and the provisions of this Act; and all fees and funds collected by the receiver shall be turned over to the Territorial Treasurer, and no receiver's fees or attorney's fees shall be allowed, and the district attorney shall be the attorney for the receiver, and the Territorial Treasurer shall keep

Board to
fix rates.

Receiver to
administer
property.

Disposition
of funds.

said money in a separate and special fund, subject to the order of the court only for whatever portion thereof that the court may order used to defray the actual expenses of the board and the receivership; at the end of one year, if the defendants and copyright owners or holders in any combination thus proceeded against, continue wilfully to disobey the court's orders, then the court shall issue an order, which shall be published in three public places, to the effect that unless the defendants obey all of the court orders within ten days from the date of said order, that the court will proceed to permanently deprive said defendants and each of them of their property; and the court shall then order said defendants to show cause within ten days why they should not be involuntarily compelled to assign all of their copyrighted works to the receiver forthwith, and to show cause why all of the funds as collected in the manner aforesaid from licenses, together with all of the copyrighted works including the performing rights thereto of said defendants and members of said combine, should not escheat and be forfeited forever to the Territory of Alaska, and be subject thereafter to administration by the Territory in the same manner as all other personal property belonging to the Territory of Alaska; if any of said defendants and copyright holders, or owners, do appear before the end of said ten day period, and take oath that they will abide by the future orders of the court and the provisions of this Act, then the court shall release their copyrighted works and order the Territorial Treasurer to return any and all of their money which has been received or seized; Provided, however, The court shall retain such jurisdiction over their persons for such time as the court may deem necessary to insure compliance with the terms of the court's judgment and the provisions of this Act; if any of said defendants or copyright owners, or holders, shall ignore or refuse to obey the show cause order, as aforesaid, or fail to

Defendants may
be ordered to
show cause.

Defendants may
obtain refund
—how.

Proviso.

Defendants
property,
escheats, when

appear at the end of ten days as ordered and abide by the court's judgment, then the court shall make an order and enter judgment to the effect that all of the copyrighted works, including the performing rights thereto, of said defendants and the members of any defendant combination, shall be construed as having been escheated and forfeited to the Territory, and the court shall thereupon appoint some officer of the court to execute an involuntary assignment of all the legal and equitable titles to all of the copyrighted works of each of said defendants and members of any defendant combination to the receiver, in the event the defendants or any of their members fail to execute a voluntary assignment, and the receiver shall immediately file said involuntary assignment at the United States Copyright Office at Washington, D. C.; and the court shall then order the receiver to close the estate, and turn the titles to said copyrighted works over by proper assignment from the receiver to the Territorial Treasurer of the Territory of Alaska, who shall thereafter administer, issue licenses for the use of the same in a manner consistent with this Act, and conserve the same as Territorial personal property in his possession, and according to law; and any funds left in the Territorial treasury from said receivership shall escheat and be forfeited to the Territory and become part of the general fund; Provided, further, The Territorial Treasurer shall make a report to the legislature on each biennium of the amount of money received from such licensing and the amount of property he has on hand through the enforcement of this Act.

Report to
Legislature.

Any appearance
by defendant
deemed general.

Section 9. That in the event any person, or any of the defendants, or nonresidents, or nonresident copyright owners or holders, are proceeded against as herein outlined, and are served with process according to law, or any nonresident is served with process as outlined in the preceding sections of this Act, and if any of said defendants, or persons, or aiders and

abettors named as defendants, appear in any such proceeding by counsel or otherwise, or institute any special proceeding attacking such proceedings, or make any motion therein, either special or general, or if any of them appear to obtain the judgment of the court solely upon the sufficiency of the service of the process upon them, or upon any phase or particularity of said injunction proceedings, such special proceeding or appearance, or motion, or appearance, as the case may be, shall nevertheless be deemed as a general appearance even though the process may have been sufficient, and said parties and defendants as may thus appear in the action, for any reason or cause, whether they seek special or affirmative relief, shall thereafter be subject to the general orders and jurisdiction of the court for all purposes, and if any of said defendants or persons appear in any court proceeding instituted to effectuate this Act solely for the purpose of challenging the validity of service of process upon them they shall be deemed to have surrendered themselves and as having submitted to the general jurisdiction of the court; Provided, however, This section shall not be construed as denying, and no attempt shall be made at any time in any proceeding in connection with the enforcement of this Act, to restrain or deny any of said defendants, resident or nonresident, copyright holders or owners, or any person, or members of any defendant combination, entity, pool, or monopoly, of their rights or property without full and complete due process of law.

Section 10. Every person, in addition to the other penalties provided in this Act, who violates or who procures, or aids or abets in the violating of this Act, or who conspires to render ineffectual any valid order or decision of any court in the enforcement of this Act, or who procures, conspires with, or aids or abets any person or persons in his or their failure to obey the provisions of this Act, or to render ineffectual any valid order of any court in connection with the enforcement

Proviso.

Violation
of act is
misdemeanor.

Penalty.

of this Act shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding five hundred dollars (\$500), or imprisonment in the Federal jail for not more than six months, or both such fine and imprisonment.

One receiver
for entire Ter-
ritory of Alaska.

Section 11. In the event more than one injunction suit provided for in this Act is instituted in this Territory, in different divisions by different district attorneys, but against the same defendants, the respective district judges hearing the causes may issue orders against said defendants in any division, but in the event any of the various district court proceedings enter into the state of receivership, as herein provided, then the judges hearing the respective causes shall order these causes where the defendants are the same, to be consolidated in one action in one particular division, and in such division as the judges may decide, to the end that only one receiver may be appointed for the entire Territory for the property of the same defendant or defendants.

Saving clause.

Section 12. In case any part or portion of this Act shall be held unconstitutional, such holding shall not effect the validity of this Act as a whole or any other part or portion of this Act, and if any clause, sentence, paragraph, subdivision, section or part of this Act shall for any reason be adjudged invalid, such judgment shall not affect, impair, or invalidate the remainder of the Act, but shall be strictly confined in its operation and holding to the specific clause, sentence, paragraph, subdivision, section or part thereof, directly involved in the controversy in which such judgment shall have been rendered; and all other Acts and laws in conflict herewith are hereby repealed.

Retroactive.

Section 13. This Act is hereby declared to be retroactive and any suits or actions now on file or in process of trial in the courts of the Territory are declared to

be included within the scope of all of the provisions of this Act.

Section 14. An emergency is hereby declared and this Act shall take effect immediately upon its passage and approval. ^{Emergency.}

Approved February 16, 1939.

CHAPTER 14.

AN ACT

[S. B. 16]

To amend Sections 636, 637, 638, 639, 640, 642 and 643, and to repeal Section 641, Compiled Laws of Alaska, 1933 relating to reindeer and other livestock brands and marks.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That Section 636, Compiled Laws of Alaska, 1933, be and the same is hereby amended to read as follows: ^{Amended.}

"Sec. 636. Application for brand or mark. Any owner of domesticated animals other than reindeer desiring to adopt a brand or mark shall make and sign an application setting forth a facsimile of the brand or mark, giving definitely its location on the animal, and file such application with the Auditor; the Auditor shall record the brand or mark and issue a certificate to the applicant adopting the brand or mark indicated and from and after the issuance of such certificate the firm, corporation, or person designated therein shall have the exclusive rights to use such brand or mark within this Territory. For the filing of the brand or mark the Auditor shall charge a fee of \$2.50, which he shall cover ^{Brand or mark application, contents.} ^{Recorded.} ^{Filing fee.}