



LAWS OF ALASKA

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Chapter No.

50

AN ACT

Relating to copyright licensing and royalties; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 4, 1996

Actual Effective Date: July 1, 1996

AN ACT

1 Relating to copyright licensing and royalties; and providing for an effective date.

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3 * Section 1. AS 45.45 is amended by adding new sections to read:

4 ARTICLE 7A. COPYRIGHT ROYALTIES AND LICENSING.

5 Sec. 45.45.500. NOTICE REQUIRED BEFORE CONTRACT. A copyright
6 owner or a performing rights society may not enter into, or offer to enter into, a
7 contract for the payment of royalties by a business proprietor unless at the time of the
8 offer, or within 72 hours before entering into the contract, the copyright owner or
9 performing rights society provides to the business proprietor a notice containing

10 (1) the rates and terms of the royalties under the contract, including any
11 sliding scale, discounts, or reductions in rates on any basis, for which the business
12 proprietor may be eligible, and any scheduled increases or decreases in rates during
13 the term of the contract;

14 (2) in the case of a performing rights society, a toll free number from
15 which the business proprietor may obtain answers to inquiries concerning musical
16 works and copyright owners represented by the performing rights society; and

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1 (3) in the case of a performing rights society, notice that the most
2 recent available list of the members or affiliates represented by the performing rights
3 society and the most recent available list of the copyrighted musical works in the
4 performing rights society's repertoire will be available on electronic media through the
5 Cabaret Hotel and Restaurant Retail Association at the expense of the performing
6 rights society.

7 Sec. 45.45.510. MINIMUM CONTENTS OF ROYALTIES CONTRACTS.

8 (a) A royalties contract entered into, issued, or renewed in this state must be in
9 writing and signed by the parties. The contract must include at least the

10 (1) business proprietor's name and business address, and the name and
11 location of each place of business of the business proprietor to which the contract
12 applies;

13 (2) duration of the contract; and

14 (3) terms for the collection of the royalties and a rate schedule for the
15 royalties, including any sliding scale, discount, or schedule for an increase or decrease
16 of the rates during the term of the contract.

17 (b) A contract for the payment of royalties entered into, issued, or renewed in
18 this state may not exceed one year at a time, unless the contract is under the terms of
19 a national agreement. When each year of the contract ends, the contract is
20 automatically renewed on the same terms and conditions unless either party to the
21 contract provides the other party with written notice of the party's desire to terminate
22 the contract or to change the terms and conditions. The notice must be given at least
23 30 days before the termination of the current term.

24 Sec. 45.45.520. COLLECTION OF ROYALTIES. A copyright owner, a
25 performing rights society, or an agent or employee of a copyright owner or performing
26 rights society may not collect or attempt to collect a payment or another fee under a
27 royalties contract between the copyright owner or performing rights society and a
28 business proprietor unless the contract complies with AS 45.45.500 - 45.45.590.

29 Sec. 45.45.530. PROHIBITED PRACTICES. (a) A performing rights society,
30 or an agent or employee of a performing rights society, may not collect or attempt to
31 collect a royalty payment or another fee from a business proprietor licensed by the

1 performing rights society, unless the collection or collection attempt is made under a
2 contract entered into in accordance with AS 45.45.500 - 45.45.590.

3 (b) An agent or employee of a performing rights society may not enter a
4 business proprietor's premises to discuss a contract for the performance of copyrighted
5 works or payment of royalties unless the agent or employee immediately discloses the
6 purpose of the discussion and that the agent or employee is an agent or employee of
7 a performing rights society.

8 Sec. 45.45.550. PRIVATE ACTION. A person who suffers a loss as a result
9 of another person knowingly engaging in conduct that violates AS 45.45.500 -
10 45.45.590 may bring a civil action to recover actual damages and reasonable attorney
11 fees, to enjoin the violation, and to seek any other remedy available at law or equity
12 for the violation. In this section, "knowingly" has the meaning given in AS 11.81.900.

13 Sec. 45.45.560. EXEMPTIONS. The provisions of AS 45.45.500 - 45.45.590
14 do not apply to

15 (1) a royalties contract between copyright owners, or performing rights
16 societies, and

17 (A) broadcasters licensed by the Federal Communications
18 Commission; or

19 (B) a cable television operator, a cable television programmer,
20 or another transmission service;

21 (2) an investigation by a law enforcement agency or other persons
22 concerning a suspected violation of AS 45.50.900(a)(2);

23 (3) contracts between copyright owners, or performing rights societies,
24 and software publishers.

25 Sec. 45.45.570. CONSTRUCTION. AS 45.45.500 - 45.45.590 may not be
26 construed to prevent a performing rights society from informing a business proprietor
27 of the business proprietor's obligations under 17 U.S.C. (federal copyright law) or
28 from exercising any exclusive rights preempted under 17 U.S.C. 301(a).

29 Sec. 45.45.590. DEFINITIONS. In AS 45.45.500 - 45.45.590,

30 (1) "business proprietor" means a person who owns a place of business
31 in which the public may assemble and in which copyrighted musical works may be

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1 performed, broadcasted, or otherwise transmitted; in this paragraph, "place of business"
2 includes a store, professional office, sports facility, entertainment facility, restaurant,
3 hotel, or an alcoholic beverage establishment licensed under AS 04.11;

4 (2) "copyright owner" means the owner of a copyright of a musical
5 work if the copyright is recognized and enforceable under 17 U.S.C.; "copyright
6 owner" does not include the owner of a copyright in all or part of a motion picture or
7 an audiovisual work;

8 (3) "musical work" means a nondramatic musical or similar work;

9 (4) "performing rights society" means an association or corporation that
10 licenses the public performance of musical works on behalf of copyright owners, and
11 includes Broadcast Music, Inc., SESAC, Inc., and The American Society of
12 Composers, Authors, and Publishers;

13 (5) "royalties" means the fees payable to a copyright owner or a
14 performing rights society for the public performance of a musical work;

15 (6) "royalties contract" means a contract for the payment of royalties.

16 * Sec. 2. AS 45.45.500 - 45.45.530, enacted by sec. 1 of this Act, do not apply to a
17 contract entered into, issued, or renewed before the effective date of this Act.

18 * Sec. 3. SEVERABILITY. If a provision of AS 45.45.500 - 45.45.590 or its application
19 to a person or circumstance is held invalid, the invalidity does not affect other provisions or
20 applications of this Act that can be given effect without the invalid provision or application
21 and, to this end, the provisions of this Act are declared to be severable.

22 * Sec. 4. This Act takes effect July 1, 1996.