

SB3167



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3167

Introduced 1/12/2022, by Sen. Rachelle Crowe

SYNOPSIS AS INTRODUCED:

New Act

Creates the Equitable Access to Electronic Literature Act. Provides that any publisher who offers a contract or license for electronic literary product acquisition to the public shall offer to license the electronic literary product to libraries, if purchased with public funds, on reasonable terms and under reasonable technological protection measures that will permit libraries to provide their patrons with access to the electronic literary products. Provides that a contract or license shall not restrict a library's right or ability to loan or circulate electronic books and digital audiobooks in specified ways. Provides that a person who violates the provisions of the Act commits an unlawful practice within the meaning of the Consumer Fraud and Deceptive Business Practices Act. Effective January 1, 2023.

LRB102 22505 SPS 31646 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Equitable Access to Electronic Literature Act.

6 Section 5. Definitions. As used in this Act:

7 "Digital audiobook" means a published work that has been
8 converted into a voice recording and released in a digital
9 audio file for listening on a computer, tablet, smart phone,
10 or any other electronic device.

11 "Electronic book" means a text document that has been
12 converted into or published in a digital format that is read on
13 a computer, tablet, smart phone, or any other electronic
14 device.

15 "Electronic literary product" means a digital audiobook or
16 an electronic book.

17 "Public funds" means any money received or spent by a
18 library from appropriations, taxes, fees, donations, or
19 interest.

20 "Publisher" means one whose business is the manufacture,
21 promulgation, or sale of books, audiobooks, or other literary
22 productions, including those in digital form consisting of
23 text, narration, or imagery.

1 "Reasonable technological protection measures" means any
2 technology that enhances the secure loaning or circulation by
3 a library of an electronic literary product.

4 "Reasonable terms" means licensing specifications that
5 consider publishers' business models as well as libraries'
6 efficient use of public funds and their mission to provide
7 equitable access to information and creative works.

8 Section 10. Library licenses. Any publisher who offers a
9 contract or license for electronic literary product
10 acquisition to the public shall offer to license the
11 electronic literary product to libraries, if purchased with
12 public funds, on reasonable terms and under reasonable
13 technological protection measures that will permit libraries
14 to provide their patrons with access to the electronic
15 literary products.

16 (1) Such reasonable terms may include:

17 (i) limiting the number of total circulations of
18 an electronic literary product per license, in which
19 case the price to libraries shall be no more than 100%
20 of the list (retail) price offered to consumers;

21 (ii) limiting the number of users to whom
22 libraries may simultaneously provide access to
23 electronic literary products; and

24 (iii) limiting the number of days libraries may
25 provide a user with access to electronic literary

1 products.

2 (2) Such reasonable technological measures may include
3 those to:

4 (i) prevent a user from maintaining access and
5 providing other users with access to electronic
6 literary products beyond the access period set forth
7 in the license;

8 (ii) limit the loan to a single patron at a time or
9 for a limited period of time for more than one patron;
10 and

11 (iii) prevent any reproduction of copies during
12 the loan period.

13 Section 15. Prohibited contract provisions.

14 (a) A contract or license shall contain no provision that:

15 (1) restricts or limits a library's right or ability
16 to loan or circulate electronic books and digital
17 audiobooks to patrons using reasonable technological
18 protection measures;

19 (2) restricts or limits a library's right to make
20 non-public preservation copies of electronic books or
21 digital audiobooks;

22 (3) restricts or limits the use of reasonable
23 technological protection measures for circulating books to
24 patrons; or

25 (4) restricts the number of licenses for electronic

1 books or digital audiobooks that libraries may purchase on
2 the same date available to the public.

3 (b) The inclusion of a contract provision that violates
4 this Section shall constitute a violation of this Act.

5 Section 20. Violation and penalties. A person who violates
6 the provisions of this Act commits an unlawful practice within
7 the meaning of the Consumer Fraud and Deceptive Business
8 Practices Act. A person who violates a provision of this Act
9 commits a business offense and may be fined not less than
10 \$1,000 nor more than \$5,000 for the first offense, and not less
11 than \$1,500 nor more than \$5,000 for the second and each
12 subsequent offense.

13 Section 99. Effective date. This Act takes effect January
14 1, 2023.