



**Testimony on HB 4088**  
**House Business & Labor Committee**  
**Submitted by Oregon Winegrowers Association**  
**February 5, 2018**

Chair Holvey, and members of the committee, thank you for addressing important music licensing legislation submitted to the legislature by the Oregon Winegrowers Association and the Oregon Restaurant and Lodging Association.

Since 1997, Oregon has had a statute on the books that governs the federal requirement that commercial entities must obtain and pay for licenses to play copyrighted music at their places of business. Performance Rights Societies (PRSs) sell these licenses to commercial establishments including wineries, taverns and bars, restaurants, and doctors and lawyers' offices, just to name a few.

Most businesses will purchase "commercial" subscriptions to play non-live music over sound systems. However, the process is more complicated when businesses entities wish to have artists play live music at their venues. Not only does a business need to have the proper license for every copyrighted song the artist plays – that is not his or her own work – but the proprietor is liable if the artist performs music for which the proprietor has not secured the proper license.

Businesses such as winery tasting rooms are wanting to offer a welcoming and unique experience for customers, which often means having local artists play live music.

It is important that businesses secure these licenses from PRSs, which does not change with HB 4088. However, at issue is how PRSs, and the agents they employ, interact with business owners when selling and renewing licenses.

We have seen tactics by some PRS agents that are unprofessional, abusive and disruptive, in particular when these businesses are trying to serve customers. Some wineries have chosen to cancel live music due to unprofessional behavior on the part of PRS agents, which does not serve wineries or the musicians. We appreciate that the PRSs have recognized that this is a situation that needs correcting.

HB 4088 is compromise legislation that creates new code of conduct measures for PRSs and the agents they employ. The bill seeks to ensure the licensing process is a normal business negotiation and not needlessly adversarial.

HB 4088 would add these new provisions to current law:



- PRSs must register with the Secretary of State, as required by statute, and each year provide the licensing agreement forms used with proprietors that include payment rates proprietors must pay to play licensed music.
- At least three days before entering into a contract with proprietors, PRSs must provide for free a searchable data base of all the performed work a PRS licenses and the rate schedule that outlines what a proprietor must pay.
- PRS agents would be:
  - Prohibited from using obscene, abusive or profane language when communicating with a proprietor or his or her employees.
  - Required to communicate with proprietors at their place of business during normal business hours.
  - Prohibited from communicating with proprietors once a proprietor has obtained legal counsel to interact with a PRS unless the attorney is unresponsive for 60 days.
- Establishes \$1,000 per act civil penalty for violation of statute.

We hope these new provisions send the message that PRS agents need be respectful and non-confrontational when dealing with business proprietors. We also hope this new collaboration with the PRSs ensures a more professional business climate for all parties involved.

This is priority legislation for the Oregon Winegrowers Association which represents Oregon's vineyards and wineries. The Oregon wine industry has an annual statewide economic impact of more than \$3.3 billion, employs 17,000 Oregonians and generates more than \$200 million in tourism revenue each year. Thank you for supporting Oregon's wine industry, and for passing this important legislation.