

HB 4088 A STAFF MEASURE SUMMARY

Carrier: Sen. Monroe

Senate Committee On Business and Transportation

Action Date: 02/19/18
Action: Do pass the A-Eng bill.
Vote: 4-0-1-0
Yeas: 4 - Beyer, Girod, Monroe, Thomsen
Exc: 1 - Riley
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Kayla Byers, LPRO Analyst

WHAT THE MEASURE DOES:

Prohibits specified activities by performing rights societies in negotiating contracts for paying royalties for performing copyrighted musical works. Requires performing rights societies to provide specified information at least 72 hours before entering into, or offering to enter into, a contract with a proprietor. Requires performing rights societies to annually file copy of template contracts with the Secretary of State. Allows court to impose fine of up to \$1,000 for willful violations.

ISSUES DISCUSSED:

- Relationship between performing rights societies, and wine and restaurant establishments
- Experience proprietors have had in business interactions with agents of performing rights societies
- Efforts of performing rights societies and wine and restaurant industry to develop consensus legislation

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

When copyrighted music is performed, the copyright holder is due a royalty payment. Performing rights societies act as the agent to the copyright holder to collect those royalties from individuals and businesses such as radio and television stations, marketers, restaurants, bars, and entertainment facilities. The three largest performing rights societies are the American Society of Composers, Authors and Publishers (ASCAP); Broadcast Music, Inc. (BMI); and the Society of European Stage Actors and Composers (SESAC). Oregon statutes governing performing rights societies have been in place since 1997. The existing statutes prohibit specified conduct, such as engaging in any coercive conduct that is substantially disruptive to a proprietor's business or using any unfair or deceptive practice when negotiating a contract with a proprietor. Performing rights societies are required to provide the proprietor with specified information prior to entering into a contract. The content of a contract must include, at a minimum, information as required by statute. A private right of action exists for any person seeking to recover actual damages, reasonable attorney fees, or an injunction.

House Bill 4088-A requires that a performing rights society provide a proprietor with specified information at least 72 hours before entering into, or offering to enter into, a contract. The measure also amends the code of conduct. In addition to the existing private right of action, the measure allows the court to impose a \$1,000 fine for each willful violation. Finally, the measure requires performing rights societies to annually file their contract templates with the Secretary of State.