

**Proposed Substitute
Bill No. 6800**

January Session, 2023

LCO No. 6066

**AN ACT CONCERNING ELECTRONIC BOOK AND DIGITAL
AUDIOBOOK LICENSING.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2023*) (a) As used in this section:

2 (1) "Electronic literary material" means any digital audiobook or
3 electronic book;

4 (2) "Digital audiobook" means a sound recording of a reading of any
5 literary production that has been converted into or published in a digital
6 audio file that may be listened to on a computer or portable electronic
7 device;

8 (3) "Electronic book" means a text document converted into or
9 published in a digital format that may be read on a computer or portable
10 electronic device;

11 (4) "Portable electronic device" means any self-contained electronic
12 device for personal use for communicating, reading, viewing, listening,
13 playing video games or computing, including, but not limited to, a
14 mobile telephone, tablet computer, electronic book reader and other
15 similar devices;

16 (5) "Library" includes any (A) public library; (B) public elementary
17 school or secondary school library; (C) tribal library; (D) academic
18 library; (E) research library; (F) public archive; and (G) the Connecticut
19 State Library;

20 (6) "Publisher" means any person in the business of the manufacture,
21 promulgation, license or sale of books, audiobooks, journals, magazines,
22 newspapers or other literary productions, including those in the form of
23 electronic literary materials, and includes any aggregator who enters
24 into a contract with any library for the purpose of providing materials
25 for purchase or license from any publisher;

26 (7) "Aggregator" means any person in the business of licensing access
27 to electronic literary material collections that include electronic literary
28 material from multiple publishers;

29 (8) "Technological protection measure" means any technology that
30 enhances the security of loaning or circulating electronic literary
31 materials by a library;

32 (9) "Borrower" means any person or organization, including another
33 library, to whom a library loans media of any type;

34 (10) "Loan" means the creation and transmission by a library to a
35 borrower of a copy of any electronic library material and the deletion of
36 such copy by the library upon the expiration of the loan period; and

37 (11) "Loan period" means the time between the creation and
38 transmission by a library to a borrower of a copy of any electronic
39 library material and the deletion of such copy by the library, as
40 determined by the library.

41 (b) The provisions of this section shall apply to any contract offered,
42 entered into or renewed by a publisher for the license of any electronic
43 literary material to any library in the state on and after October 1, 2023.

44 (c) No contract or license agreement between any publisher and any
45 library in this state shall preclude, limit or restrict the library from
46 performing customary operational or lending functions, including any
47 provision that:

48 (1) Prohibits the library from loaning any electronic literary material,

49 including through any interlibrary loan system;

50 (2) Restricts the number of times the library may loan any electronic
51 literary material over the course of the license agreement if such
52 agreement also restricts the library's loan period for electronic literary
53 material;

54 (3) Limits the number of electronic literary material licenses the
55 library may purchase on the same date such electronic literary material
56 is made available for purchase by the public;

57 (4) Prohibits the library from making nonpublic preservation copies
58 of any electronic literary material;

59 (5) Restricts the library from disclosing the terms of the license
60 agreement to any other library in the state;

61 (6) Restricts the duration of the license agreement unless the
62 publisher has also offered the library a license agreement (A) based on
63 a pay-per-use model, or (B) that provides for the perpetual public use of
64 the electronic literary material upon commercially reasonable terms in
65 consideration of the library's mission; or

66 (7) Requires the library to violate the provisions of section 11-25 of
67 the general statutes.

68 (d) A contract or license agreement between a publisher and a library
69 may require:

70 (1) A limitation on the number of borrowers the library may allow to
71 have simultaneous access to any electronic literary material; or

72 (2) The library's reasonable use of any technological protection
73 measure that prevents a borrower from:

74 (A) Maintaining access to any electronic literary material beyond the
75 access period specified in the license; and

76 (B) Providing other borrowers with access to any electronic literary
77 material.

78 (e) Any publisher that violates the provisions of this section shall
79 have committed an unfair trade practice under subsection (a) of section
80 42-110b of the general statutes.

81 (f) Any contract or license agreement concerning electronic literary
82 material that includes provisions prohibited by section (c) of this section
83 is unconscionable within the meaning of section 42a-2-302 of the general
84 statutes.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2023</i>	New section
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