



General Assembly

**Substitute Bill No. 6829**

January Session, 2023



**AN ACT MAKING CERTAIN TERMS IN ELECTRONIC BOOK AND  
DIGITAL AUDIOBOOK LICENSE AGREEMENTS OR CONTRACTS  
UNENFORCEABLE.**

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  
2 section:

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

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

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

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

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

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

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

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

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

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

39 (11) "Loan period" means the period of time commencing with the  
40 creation and transmission by a library to a borrower of a copy of any  
41 electronic library material and concluding with the deletion of such  
42 copy by the library, as determined by the library.

43 (b) The provisions of this section shall apply to any contract or  
44 license agreement entered into or renewed on and after October 1,  
45 2023, by a library in the state with a publisher for the license of any  
46 electronic literary material.

47 (c) No contract or license agreement between any publisher and any  
48 library in this state shall be construed to preclude, limit or restrict the  
49 library from performing customary operational or lending functions,  
50 including any provision that:

51 (1) Prohibits the library from loaning any electronic literary  
52 material, including through any interlibrary loan system;

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

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

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

62 (5) Restricts the library from disclosing the terms of the contract or  
63 license agreement to any other library in the state;

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

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

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

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

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

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

79 (B) Providing other borrowers with access to any electronic literary  
80 material.

81 (e) Any contract or license agreement concerning electronic literary  
82 material that includes provisions described in subdivisions (1) to (7),  
83 inclusive, of subsection (c) of this section shall be unenforceable as to  
84 those provisions.

85 (f) No person shall attempt to enforce a provision described in  
86 subdivisions (1) to (7), inclusive, of subsection (c) of this section against  
87 a library, including, but not limited to, by means of a technological  
88 protection measure, except that a person may seek resolution of a  
89 dispute concerning such provision in a judicial forum. Any violation of  
90 this subsection shall be subject to a civil penalty of five hundred  
91 dollars per violation imposed either under subsection (g) or (h) of this  
92 section, as applicable, provided such penalty shall not exceed four  
93 thousand five hundred dollars in the aggregate.

94 (g) Any municipality may, by ordinance, establish a civil penalty for  
95 a violation of subsection (f) of this section that concerns a public or  
96 public elementary or secondary school library of such municipality of  
97 not more than five hundred dollars per violation, provided such  
98 penalty shall not exceed four thousand five hundred dollars in the  
99 aggregate. Any person who is assessed a civil penalty pursuant to this  
100 subsection may appeal therefrom to the Superior Court in the manner  
101 provided in subsection (g) of section 7-152c of the general statutes.

102 (h) In the case of the Connecticut State Library or another library of  
103 a state agency, as defined in section 1-79 of the general statutes, the  
104 State Librarian or such state agency, as applicable, may request the  
105 Attorney General to institute a civil action in the superior court for the

106 judicial district of Hartford for injunctive or other equitable relief or to  
107 recover a civil penalty pursuant to subsection (f) of this section.

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

**Statement of Legislative Commissioners:**

In Subsecs. (e) and (f), "prohibited" was replaced with "described" for accuracy, in Subsec. (f), "against a library" was added for consistency with legislative intent and "imposed either under subsection (g) or (h) of this section, as applicable" was added for clarity and in Subsec. (g), "7-152b" was changed to "7-152c" for accuracy.

**GAE**      *Joint Favorable Subst.*