

1 AN ACT relating to electronic literary products.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Contract terms" means the legal obligations of a financial transaction*
7 *between a library and a publisher to contract, license, or otherwise allow the*
8 *library to acquire rights to loan an electronic literary product to patrons of*
9 *the library;*

10 *(b) "Digital audiobook" means a published work that has been converted into a*
11 *voice recording and released in a digital audio file for listening on a*
12 *computer, tablet, smartphone, or any other electronic device;*

13 *(c) "Electronic book" means a text document that has been converted into or*
14 *published in a digital format that is read on a computer, tablet, smartphone,*
15 *or any other electronic device;*

16 *(d) "Electronic literary product" means a digital audiobook or an electronic*
17 *book;*

18 *(e) "Library" means a library:*

19 *1. Operating under KRS Chapter 173;*

20 *2. Established and maintained by a public postsecondary institution;*

21 *3. Established and maintained by a local school district or public charter*
22 *school; or*

23 *4. Of a city university or college operating under KRS Chapter 165;*

24 *(f) "Publisher" means a person whose business is the manufacture,*
25 *distribution, or sale of books, audiobooks, or other literary products,*
26 *including those in digital or electronic form consisting of text, narration, or*
27 *imagery; and*

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

4 (2) Any publisher who sells or distributes for sale electronic literary products to the
5 public shall offer to sell electronic literary products to libraries under reasonable
6 contract terms and the use of reasonable technological protection measures that
7 permit libraries to provide their patrons with access to the electronic literary
8 products.

9 (3) (a) Reasonable contract terms may include limiting the number of:

10 1. Total circulations of an electronic literary product per license, in
11 which case the price to libraries shall be no more than one hundred
12 percent (100%) of the suggested retail price offered to consumers who
13 are not affiliated with libraries;

14 2. Patrons to whom libraries may simultaneously provide access to
15 electronic literary products; and

16 3. Days libraries may provide a patron with access to an electronic
17 literary product the patron has selected.

18 (b) Reasonable technological measures may include those which:

19 1. Prevent a patron from maintaining access to or providing others with
20 access to electronic literary products beyond the period established in
21 the license;

22 2. Limit to a single patron the access of an electronic literary product
23 subject to a license agreement;

24 3. Limit the number of days an electronic literary product subject to a
25 license agreement may be accessed by a patron; and

26 4. Prevent the reproduction of an electronic literary product while the
27 patron has access to the product.

- 1 (4) A contract or license executed between the publisher and a library for the use of
2 an electronic literary product shall contain no contract term that restricts or
3 limits:
4 (a) A library's right or ability to lend electronic literary products to patrons
5 using reasonable technological protection measures allowed in subsection
6 (3)(b) of this section;
7 (b) A library's rights to make nonpublic preservation copies of electronic
8 literary products; or
9 (c) The number of publicly available electronic literary products that libraries
10 may purchase on the day that the electronic literary product is first made
11 available to the public.
- 12 (5) A contract or license executed between the publisher and a library for the use of
13 an electronic literary product containing contract terms in violation of this
14 section shall be an unfair, false, misleading, or deceptive act or practice in the
15 conduct of trade or commerce in violation of KRS 367.170. Each contract or
16 license that contains contract terms in violation of this section shall constitute a
17 separate violation.