

SENATE BILL 432

F5

(11r1772)

ENROLLED BILL

— Education, Health, and Environmental Affairs/Ways and Means —

Introduced by **Senator King**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Public Libraries – Electronic ~~Book~~ Literary Product Licenses – Access**

3 FOR the purpose of requiring a publisher who offers to license an electronic ~~book~~ literary
4 product to the public to also offer to license the electronic ~~book~~ literary product to
5 public libraries in the State on reasonable terms that would enable public libraries
6 to provide library users with access to the electronic ~~book~~ literary product; ~~requiring~~
7 authorizing the terms of a license authorizing public libraries to provide access to an
8 electronic ~~book~~ literary product to include certain limitations and measures;
9 prohibiting the terms of a license from including a limitation on the number of
10 licenses public libraries may purchase on the same date an electronic ~~book~~ literary
11 product license is made available to the public; providing that a violation of this Act
12 shall constitute an unfair, abusive, or deceptive trade practice subject to certain
13 enforcement; defining certain terms; providing for a delayed effective date; and
14 generally relating to electronic ~~book~~ literary product licenses.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 BY adding to
 2 Article – Education
 3 Section 23–701 and 23–702 to be under the new subtitle “Subtitle 7. Electronic ~~Book~~
 4 Literary Product Licenses”
 5 Annotated Code of Maryland
 6 (2018 Replacement Volume and 2020 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 8 That the Laws of Maryland read as follows:

9 **Article – Education**

10 **SUBTITLE 7. ELECTRONIC ~~BOOK~~ LITERARY PRODUCT LICENSES.**

11 **23–701.**

12 (A) IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS
 13 INDICATED.

14 (B) “ELECTRONIC ~~BOOK~~ LITERARY PRODUCT” MEANS ~~A TEXT DOCUMENT~~
 15 ~~THAT HAS BEEN: CONVERTED~~

16 (1) ~~CONVERTED~~ A TEXT DOCUMENT THAT HAS BEEN CONVERTED
 17 INTO OR PUBLISHED IN A DIGITAL FORMAT THAT IS READ ON A COMPUTER, TABLET,
 18 SMART PHONE, OR OTHER ELECTRONIC DEVICE; OR

19 (2) ~~READ ALOUD AND RECORDED~~ AN AUDIO RECORDING OF A TEXT
 20 DOCUMENT, READ OUT LOUD IN A FORMAT THAT IS LISTENED TO ON A COMPUTER,
 21 TABLET, SMART PHONE, OR OTHER ELECTRONIC DEVICE.

22 (C) “PUBLISHER” MEANS A PERSON IN THE BUSINESS OF MANUFACTURING,
 23 PROMULGATING, AND SELLING BOOKS, AUDIO BOOKS, JOURNALS, MAGAZINES,
 24 NEWSPAPERS, OR OTHER LITERARY PRODUCTIONS, INCLUDING THOSE IN DIGITAL
 25 FORM, THAT CONSIST OF TEXT, IMAGERY, ~~OR BOTH~~ AUDIO RECORDINGS, OR ANY
 26 COMBINATION OF TEXT, IMAGE, AND AUDIO RECORDING.

27 (D) “UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICES” HAS THE
 28 MEANING STATED IN § 13–301 OF THE COMMERCIAL LAW ARTICLE.

29 **23–702.**

30 (A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A PUBLISHER
 31 WHO OFFERS TO LICENSE AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT TO THE
 32 PUBLIC ALSO SHALL OFFER TO LICENSE THE ELECTRONIC ~~BOOK~~ LITERARY
 33 PRODUCT TO PUBLIC LIBRARIES IN THE STATE ON REASONABLE TERMS THAT

1 WOULD ENABLE PUBLIC LIBRARIES TO PROVIDE LIBRARY USERS WITH ACCESS TO
2 THE ELECTRONIC ~~BOOK~~ LITERARY PRODUCT.

3 (B) THE TERMS OF A LICENSE UNDER SUBSECTION (A) OF THIS SECTION
4 ~~SHALL~~ MAY INCLUDE:

5 (1) A LIMITATION ON THE NUMBER OF USERS A PUBLIC LIBRARY MAY
6 SIMULTANEOUSLY ALLOW TO ACCESS AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT;

7 (2) A LIMITATION ON THE NUMBER OF DAYS A PUBLIC LIBRARY MAY
8 ALLOW A USER TO ACCESS AN ELECTRONIC ~~BOOK~~ LITERARY PRODUCT; AND

9 (3) THE USE OF TECHNOLOGICAL PROTECTION MEASURES THAT
10 WOULD PREVENT A USER FROM:

11 (I) MAINTAINING ACCESS TO AN ELECTRONIC ~~BOOK~~ LITERARY
12 PRODUCT BEYOND THE ACCESS PERIOD SPECIFIED IN THE LICENSE; AND

13 (II) ALLOWING OTHER USERS TO ACCESS AN ELECTRONIC ~~BOOK~~
14 LITERARY PRODUCT.

15 (C) THE TERMS OF A LICENSE UNDER SUBSECTION (A) OF THIS SECTION
16 MAY NOT INCLUDE A LIMITATION ON THE NUMBER OF ELECTRONIC ~~BOOK~~ LITERARY
17 PRODUCT LICENSES A PUBLIC LIBRARY MAY PURCHASE ON THE SAME DATE THE
18 ELECTRONIC ~~BOOK~~ LITERARY PRODUCT LICENSE IS MADE AVAILABLE TO THE
19 PUBLIC.

20 (D) A VIOLATION OF THIS SUBTITLE SHALL CONSTITUTE AN UNFAIR,
21 ABUSIVE, OR DECEPTIVE TRADE PRACTICE AND IS SUBJECT TO ENFORCEMENT IN
22 ACCORDANCE WITH TITLE 13, SUBTITLE 4 OF THE COMMERCIAL LAW ARTICLE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~July~~
24 ~~1, 2021~~ January 1, 2022.