WEST VIRGINIA CODE CHAPTER 47 ARTICLE 2A

WV Legislature

§47-2A-1. Legislative findings.

The Legislature finds and declares that:

(a) Under the copyright laws of the United States, a copyright owner may enforce the rights thereof against the owners of restaurants, bars, retail establishments, entertainment and sports facilities and similar places of business where members of the public may assemble for the public performance of music and other similar copyrighted works, whether it be in person by a performing artist hired by the proprietor or on radio stations or other electronic media transmitted, received and rebroadcast by the proprietor at those places of business;

(b) The rights and responsibilities regarding copyrighted works are set forth in clause eight, section VIII, article I of the Constitution of the United States and governed statutorily by Title 17 of the United States code. The Legislature believes it is important that the State of West Virginia assist its business owners who utilize copyrighted materials and the creative artists of this state and elsewhere by ensuring that the holders of copyrights and those who use such materials are equitably treated.

WV Legislature

§47-2A-2. Definitions.

As used in this article:

(1) "Copyright owner" means the owner of a copyright of a nondramatic musical or similar work, other that a motion picture or other audiovisual work, recognized and enforceable under the copyright laws of the United States pursuant to Title 17 of the United States Code, Public Law 94-553.

(2) "Performing rights society" means an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners, such as the American society of composers, authors and publishers, broadcast music, inc., and SESAC, inc.

(3) "Proprietor" means the owner of a retail establishment, restaurant, inn, bar, tavern, sports or other entertainment facility or any other similar place of business located in this state in which the public may assemble to hear nondramatic musical works or similar copyrighted works be performed, broadcast or otherwise transmitted for the enjoyment of the members of the public there assembled.

(4) "Royalty" or "royalties" means the fees payable to the copyright owner or performing rights society for the public performance of nondramatic musical or other similar work.

WV Legislature

§47-2A-3. Publication of royalty rates; notice requirement; sanctions for failure to publish.

(a) Any copyright owner or performing rights society seeking to charge a proprietor or proprietors a royalty or fee for the performance for the public of nondramatic musical or similar works, shall, at least annually provide notice of the royalty or fee rate and the means of its computation to said proprietor or proprietors.

(b) The notice referred to in subsection (a) of this section shall be satisfied if the copyright owner or performing rights society publishes the required information in a Class II-0 legal advertisement in a qualified newspaper published in this state with a bona fide circulation of forty thousand or more, or if the copyright owner or performing rights society files copies of its license agreements containing the information required under subsection (a) of this section with the Secretary of State's office.

(c) Failure of a copyright owner or performing rights society to meet the publication requirements of this section shall constitute a complete defense to any civil action brought by a copyright owner or performing rights society seeking to recover royalties in circumstances where no contract exists between such parties regarding royalties.

WV Legislature

§47-2A-4. Applicability.

This article does not apply to contracts between copyright owners or performing rights societies and broadcasters licensed by the federal communications commission, except that if a copyright owner or performing rights society is licensed by the federal communications commission, this article shall apply to contracts between that copyright owner or performing rights society and a proprietor as otherwise provided herein. This article does not apply to any conduct engaged in for the enforcement of section fifty, article three, chapter sixty-one of this code.

WV Legislature