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## OLR Bill Analysis

sSB 1234 (File 132, as amended by Senate "A")\*

### ***AN ACT PROHIBITING LIBRARIES FROM AGREEING TO CERTAIN TERMS IN ELECTRONIC BOOK AND DIGITAL AUDIOBOOK LICENSE AGREEMENTS OR CONTRACTS.***

#### **SUMMARY**

This bill generally prohibits publicly funded libraries from entering or renewing contracts and licensing agreements (collectively referred to as “agreements” below) with publishers of electronic literary materials (i.e. electronic books (eBooks) and digital audiobooks) that prevent, limit, or restrict the library from performing certain customary operational or lending functions specified in the bill. However, the prohibition only applies starting 60 days after the secretary of the state determines that a substantially similar law has been enacted by one or more other states with a combined population of at least seven million.

The bill applies to (1) the Connecticut State Library and (2) any public library, public elementary or secondary school library, academic or research library, or public archive if it is partially or fully funded (e.g., through grants, loans, insurance, or matching expenditures) by the state or one of its political subdivisions (e.g., municipalities). The bill’s prohibition applies for the duration of the fiscal year in which the library or archive receives the funding and the next fiscal year after that.

Under the bill, “publishers” are (1) businesses that manufacture, promulgate, license, or sell books, journals, magazines, newspapers, or other literary productions (including digital formats and digital audiobooks) or (2) aggregators in the business of licensing access to material collections, including works from multiple publishers, and entering into contracts with libraries to sell or license these materials.

\*Senate Amendment “A” adds a trigger for implementing the bill’s prohibitions based on other states adopting similar laws, specifies that the bill’s prohibition limiting an agreement’s duration only applies to

agreements for electronic literary materials, and moves up the bill's effective date.

EFFECTIVE DATE: July 1, 2025

## **PROHIBITION TRIGGER**

Under the bill, the state librarian must verify, at least quarterly, whether any other states have enacted laws substantially similar to the bill. Then, within 30 days after the secretary of the state, in consultation with the state librarian, determines that such a law has been enacted in one or more other states with a combined population of at least seven million, according to the most recent U.S. decennial census, the state librarian must electronically notify the education commissioner, Office of Policy and Management (OPM) secretary, and all libraries operated by a state agency about the determination and when the bill's prohibition will become effective.

The state librarian and the secretary of the state must also ensure that the determination and effective date are posted on their websites. In addition, the OPM secretary must electronically notify all of the state's municipalities about the determination and effective date, and the education commissioner must do the same for all public elementary and secondary schools.

## **AGREEMENT TERMS**

### ***Prohibited Terms***

Starting 60 days after the secretary of state makes the determination described above, the bill generally prohibits the covered libraries from entering or renewing agreements with publishers that prevent, limit, or restrict their ability to perform customary operational or lending functions. More specifically, the bill prohibits the libraries from entering agreements that:

1. prohibit the library from lending any electronic literary material, including through an interlibrary loan;
2. restrict the number of times the library may loan electronic literary material over the course of the agreement if it also

- restricts the library's loan period for the material;
3. limit the number of licenses the library can buy on the day the material is made available for public purchase;
  4. prohibit the library from making nonpublic preservation copies;
  5. restrict the library from disclosing an agreement's terms to another Connecticut library;
  6. restrict the duration of the agreement for electronic literary material unless the library also has the option of an agreement on commercially reasonable terms, considering the library's mission, that allows (a) a pay-per-use model or (b) perpetual public use of the electronic literary material;
  7. require the library to violate the law that protects its patrons' confidential information;
  8. are non-severable from any of its provisions that a judicial forum finds prohibited by the bill; or
  9. allow any of the bill's prohibited provisions to be enforced outside of a judicial forum (e.g., through arbitration).

***Permissible Terms***

The bill also specifies that the libraries' agreements with publishers may do the following:

1. limit the number of borrowers with simultaneous access to any electronic literary material or
2. require the library to reasonably use technological protection measures that prevent a borrower from (a) maintaining access to material beyond the agreement's allowable loan period or (b) sharing access to the material with other borrowers.

## **BACKGROUND**

### ***Related Bill***

HB 6958 (File 268), favorably reported by the Planning and Development Committee, is substantially similar to this bill, but does not include the trigger provision.

## **COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable

Yea 14    Nay 5    (02/28/2025)