



S.9339 (May) / A.3589 (Carroll)

An act to amend the education law, in relation to protecting library access to electronic literary materials

The New York Library Association (NYLA) supports the above referenced legislation.

If enacted, this bill would require that any contract between libraries and publishers who offer electronic books (eBooks) be governed by the laws of New York State under its authority to regulate intrastate commerce. Additionally, it would establish a list of provisions prohibited from inclusion in said contracts, thereby affording library patrons across our state equitable access to the content they seek.

Libraries are instruments of the common good – institutions created to serve our collective interest in guaranteeing access to art, culture, and education for all people. As such, their ability to render services to New Yorkers must be insulated from profit-motivated market forces.

Unfortunately, publishers have enacted industry-specific pricing models that saddle libraries with exorbitant costs, contract limitations, and temporary embargos prohibiting the purchase of titles deemed “high demand.” Rather than allowing libraries to purchase eBooks on equal terms with the public, publishers restrict them to limited licenses that cost exponentially more than private purchases and expire after fixed periods or circulations. While we understand and accept that physical copies of books wear out and require eventual repurchase, this does not occur in a matter of 12 months, 24 months, or even the 100 circulations commonly included in these licenses.

Furthermore, this legislation is fundamentally different from that which Governor Hochul vetoed in 2021 and the United States District Court for the District of Maryland struck down in 2022. Whereas those bills would have mandated that publishers “shall offer” eBooks to public libraries “on reasonable terms,” this legislation contains no requirement and does not force publishers into contracts.

Rather than including a “shall offer” provision that would “interfere with copyright owners’ exclusive right to distribute by dictating whether, when, and to whom they must distribute their copyrighted works,” as was objected to by the District Court for the District of Maryland, this bill clarifies that states are within their rights to regulate, rather than mandate contracts.



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Moreover, these restrictions financially burden our libraries and in essence prevent them from developing stable collections with actual ownership over the materials they circulate.

Many New Yorkers prefer digital content and libraries provide this content as a benefit to their communities. E-books are particularly useful for senior citizens, people with disabilities, and others for whom digital content is more accessible and manageable. This bill would create minimum consumer protection practices in the industry and ensure that all New Yorkers have access to content that interests them in the format they desire.

For additional information, please contact Max Prime at the New York Library Association at 518.432.6952, 518.248.8002, or advocate@nyla.org.