

Live Music

Requires a Music License

- **Cover Bands:** Any cover music performed that is written by a member of a PRO requires a license to be legally played in a public venue.
- **Karaoke:** If the event is open to the public, it requires a license.

May not Require a Music License

- **Original Music:** If you hire a musician not affiliated with any PRO that licenses their works and ensure they only play their own music and *don't take requests*. If the musician is playing their own music BUT they are with a PRO, have them sign a licensing waiver.
- **Public Domain:** If you play music written by a songwriter who has died more than 70 years ago and whose music is no longer covered by copyright.
- **Traditional Music:** Traditional or folk music that has no songwriter.
- **Private Events:** Weddings, birthday parties, anniversary parties, or other events that are invitation only and not open to the public.

Recorded Music

Requires a Music License

- **Personal Music:** CDs, Tapes, Vinyl Records, DJ's, Free-Play Jukebox, iPod's, MP3's, or other digital music.
- **Enhanced Recorded Music:** Karaoke, DVDs, VJs, Video Tapes
- **TV:** 3750 square feet or larger, and 1) more than four TVs; or 2) more than one TV in any one room; or 3) if any TV has a diagonal screen size greater than 55 inches; or 4) if any audio portion of the audiovisual performance is communicated by more than six loudspeakers, or four loudspeakers in any one room or adjoining outdoor space; or if there is any cover charge.
- **For radio: 1)** more than six loudspeakers; or 2) more than four loudspeakers in any one room or adjoining outdoor space; or 3) if there is any cover charge; or 4) music on hold.

May not Require a Music License

- **Streaming Services for Business:** Use pay-in-advance services, such as XM4biz or Pandora Business
- **Royalty-Free Music:** Only plays royalty-free music.
- **Homestyle Exemption:** Less than 3,750 gross square feet and-plays radio or television, where copyrights are covered by the broadcasters.
- – or – Over 3,750 gross square feet of space, no more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space.

What to Do When Contacted by a PRO

- **Contact:** Instruct your employees to direct communication to you via email.
- **Determine if you are compliant with copyright law:** Take the time to sit down and speak with the PRO representative about your music use so you can ensure 1) that you need a license and 2) that the license accurately reflects the music that is being played.
- **If you are playing copyrighted music:** Ask for a fee calculation sheet. If you are only playing music occasionally (4 or less times a year) then you may qualify for an occasional

license. If your winery is seasonal, meaning you are closed for a certain amount of time each year then you may qualify for a seasonal license.

- **If problems persist:** If you are experiencing continued difficulties with a PRO agent contact Tara Good at WineAmerica.

Other Suggestions

- **Play music by songwriters from one PRO only:** If the PRO has a repertory search function on their website, search and see if the music you are performing is affiliated with them. Ensure that your musicians understand why they must limit their play list.
- **Talk with your lawyer:** If you are being pursued by a PRO for reasons that you consider unnecessary, discuss with your lawyer.
- **Make the business decision that is right for you:** Consider all options available to you.

Questions & Answers

What is a Performance Rights Organization (PRO)?

A music Performing Rights Organization (PRO) represents songwriters, composers and music publishers, collects royalties from licenses, and pays the royalties back to the artists. There are three major PROs: BMI, ASCAP and SESAC.

What is music licensing?

Music is created, copyrighted, and licensed. When it's performed, the songwriter and recording artist are owed a royalty. Although most people buy digital audio files, CDs, thinking they are now their property, there is a distinction in the law between owning a copy of the music and owning the actual songs that are played. The purchase price covers only **your private listening use**. Once you decide to play any copyrighted music publicly, that is beyond **"a normal circle of friends and family,"** you need permission from the copyright owners.

Why do I need music licensing?

A music license provides you with the legal authorization you need to play music. A licensing agreement protects your business from the penalties involved in copyright infringement.

Do I need to pay all three PROs?

That depends. PRO's offer "blanket licenses" that allows you to perform all the copyrighted music in their repertory. If you play music contained in a PRO's repertory, they have grounds to peruse legal action.

How do I know what music is owned by which PRO?

The PROs maintain their repertories differently.

- ASCAP: www.ascap.com/repertory
- BMI: www.bmi.com/search
- SESAC: <https://www.sesac.com/Repertory/RepertorySearch.aspx>

What happens if a PRO finds out that I am playing copyrighted music?

They will make repeated attempts to collect fees over a prolonged period of time. At some point they may consider legal action based on copyright infringement. The penalties range in price and are steep.

I am playing non-copyrighted music but the PROs continue to contact me.

WineAmerica can help assist resolve disputes between wineries and a PRO. Contact Tara Good at tgood@wineamerica.org or 202-223-5175.

How can I save when purchasing licenses?

WineAmerica now offers a **10% discount to it's members**. Visit the [ASCAP website](#) to register. Be sure to ask for the winery license and the WineAmerica discount. Feel free to contact Tara Good, Vice President at WineAmerica with any questions (tgood@wineamerica.org or 202-223-5175)