

By: Naishtat

H.B. No. 3382

Substitute the following for H.B. No. 3382:

By: Giddings

C.S.H.B. No. 3382

A BILL TO BE ENTITLED

AN ACT

1
2 relating to providing certain computerized instructional material
3 for blind and visually impaired students at public institutions of
4 higher education.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter Z, Chapter 51, Education Code, is
7 amended by adding Section 51.970 to read as follows:

8 Sec. 51.970. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY
9 IMPAIRED STUDENTS. (a) In this section:

10 (1) "Blind or visually impaired student" includes any
11 student whose visual acuity is impaired to the extent that the
12 student is unable to read the print in the standard printed
13 instructional material used in a course in which the student is
14 enrolled.

15 (2) "Coordinating board" means the Texas Higher
16 Education Coordinating Board.

17 (3) "Institution of higher education" has the meaning
18 assigned by Section 61.003.

19 (4) "Instructional material" means a book, system of
20 instructional material, or combination of a book and supplementary
21 instructional material that conveys information to or otherwise
22 contributes to the learning process of a student.

23 (5) "Special instructional material" means
24 instructional material in Braille, large print, audio format,

1 digital text, or any other medium or any apparatus that conveys
2 information to or otherwise contributes to the learning process of
3 a blind or visually impaired student.

4 (b) This section applies only to instructional material
5 that is:

6 (1) written and published primarily for postsecondary
7 instruction of students; and

8 (2) required or essential for a student's success in a
9 course at an institution of higher education, as identified by the
10 instructor of the course for which the instructional material will
11 be used, in consultation with the person at the institution with
12 primary responsibility for services for students with disabilities
13 and in accordance with rules adopted under Subsection (i)(1).

14 (c) To assist the institution in producing special
15 instructional material, a publisher or manufacturer of printed
16 instructional material assigned by an institution of higher
17 education for use by students in connection with a course at the
18 institution shall provide to the institution on the institution's
19 request in accordance with this section computerized files based on
20 the printed instructional material. The publisher or manufacturer,
21 as applicable, shall provide the computerized files not later than
22 the 15th business day after the date of receipt of the request and
23 may not impose any charge for providing the files.

24 (d) A request made by an institution of higher education
25 under Subsection (c) must:

26 (1) certify that for each blind or visually impaired
27 student who will use specialized instructional material based on

1 the requested computerized files for a course in which the student
2 is enrolled at the institution, either the institution or the
3 student has purchased a printed copy of the instructional material;
4 and

5 (2) be signed by the person at the institution with
6 primary responsibility for services for students with
7 disabilities.

8 (e) A publisher or manufacturer may require that a request
9 made by an institution of higher education under Subsection (c)
10 include from each student for whom the institution is making the
11 request a signed statement in which the student agrees:

12 (1) to use the requested computerized files and
13 related special instructional material only for the student's own
14 educational purposes; and

15 (2) not to copy or otherwise distribute in a manner
16 that violates 17 U.S.C. Section 101 et seq. the requested
17 computerized files or the printed instructional material on which
18 the requested computerized files are based.

19 (f) The computerized files of the printed instructional
20 material must:

21 (1) be in a format that:

22 (A) except as provided by Subsection (g),
23 contains all of the information that is in the printed
24 instructional material, including any text, sidebar, table of
25 contents, chapter headings, chapter subheadings, footnotes, index,
26 glossary, and bibliography, and is approved by the publisher or
27 manufacturer, as applicable, and the institution of higher

1 education as a format that will contain that material; and

2 (B) is compatible with commonly used Braille
3 translation and speech synthesis software; and

4 (2) include any correction or revision available at
5 the time the computerized files are provided.

6 (g) If the publisher or manufacturer and the institution of
7 higher education are not able to agree on a format as required by
8 Subsection (f)(1)(A), the publisher or manufacturer, as
9 applicable, shall provide the computerized files in American
10 Standard Code for Information Interchange (ASCII) text or an
11 equivalent text and in a format that contains as much of the
12 material specified by that subsection as is practicable.

13 (h) The coordinating board may impose a reasonable
14 administrative penalty against a publisher or manufacturer that
15 knowingly violates this section. The coordinating board shall
16 provide for a hearing to be held, in accordance with coordinating
17 board rule, to determine whether a penalty is to be imposed and the
18 amount of any penalty. The coordinating board shall base the amount
19 of any penalty on:

20 (1) the seriousness of the violation;

21 (2) any history of a previous violation;

22 (3) the amount necessary to deter a future violation;

23 (4) any effort to correct the violation; and

24 (5) any other matter justice requires.

25 (i) The coordinating board, in consultation with an
26 advocacy organization for persons who are blind or visually
27 impaired, shall adopt rules for administering this section,

1 including rules that address:

2 (1) the method for identifying instructional material
3 considered to be required or essential for a student's success in a
4 course;

5 (2) the procedures and standards relating to
6 distribution of computerized files under this section; and

7 (3) any other matter considered necessary or
8 appropriate for the administration of this section.

9 SECTION 2. (a) Section 51.970, Education Code, as added by
10 this Act, applies beginning with requests for computerized files of
11 printed instructional material assigned for use by students in the
12 2008 spring semester.

13 (b) Not later than November 1, 2007, the Texas Higher
14 Education Coordinating Board shall adopt rules as required by
15 Section 51.970(i), Education Code, as added by this Act.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2007.