

By: Branch

H.B. No. 4617

A BILL TO BE ENTITLED

AN ACT

relating to the sale of instructional materials to students of public institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.949 to read as follows:

Sec. 51.949. FAIR TREATMENT OF INDEPENDENT BOOKSTORES. (a)

In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Instructional materials" means any printed or computer-generated educational material, including textbooks, or any equipment or supplies that a student is required or recommended to use in connection with a course at an institution of higher education.

(3) "University-affiliated bookstore" means a store that sells instructional materials, regardless of whether the store is located on the campus of an institution of higher education, and that is operated by or with the approval of the institution through ownership or through a management, lease, rental, or similar agreement.

(b) This section does not apply to an institution of higher education with a university-affiliated bookstore if the bookstore is owned and operated by the institution.

1 (c) Each institution of higher education shall make
2 available for public inspection through the Internet or in person a
3 list of required or recommended instructional materials for a
4 semester or other academic term at the same time the institution
5 provides the list to the operator of a university-affiliated
6 bookstore.

7 (d) To the extent that space for an activity described by
8 this subsection is available, an institution of higher education
9 shall provide to a retailer or other provider of instructional
10 materials that holds a sales tax permit issued to the provider under
11 Subchapter F, Chapter 151, Tax Code, the same opportunity as an
12 operator of a university-affiliated bookstore to participate in any
13 programs related to the dissemination or provision of instructional
14 materials to students of the institution, including providing
15 information at student orientation or participating in a program of
16 repurchasing instructional materials. If sufficient space is not
17 available for each provider of instructional materials, other than
18 an operator of a university-affiliated bookstore, that holds a
19 sales tax permit and that applies to participate in an activity
20 described by this subsection, the institution shall provide the
21 available space in the same order as those providers applied to
22 participate in the activity.

23 (e) An institution of higher education may charge to a
24 provider of instructional materials, other than an operator of a
25 university-affiliated bookstore, a reasonable fee for
26 participation in an activity described by Subsection (d).

27 (f) If an institution of higher education works with a

1 university-affiliated bookstore to provide a method for the
2 extension of credit or the ability of a student to charge or
3 otherwise delay the payment of the costs of instructional
4 materials, including the extension of credit under Section
5 51.929(b), the institution shall provide to any other provider of
6 instructional materials to students of the institution that holds a
7 sales tax permit issued to the provider under Subchapter F, Chapter
8 151, Tax Code, equal access and opportunity to use or develop the
9 same or similar method of payment at a reasonable cost to that
10 person.

11 (g) Subsection (f) does not restrict an institution of
12 higher education from adopting or enforcing a policy that is
13 necessary to ensure the institution's compliance with a rule or
14 policy of the National Collegiate Athletic Association or of
15 another organization governing intercollegiate athletic
16 competition of which the institution is a member.

17 SECTION 2. (a) Section 51.949, Education Code, as added by
18 this Act, applies only to a semester or term that begins on or after
19 the effective date of this Act.

20 (b) Section 51.949, Education Code, as added by this Act,
21 does not affect the terms of a contract entered into before the
22 effective date of this Act, except that if the contract is renewed
23 on or after the effective date of this Act, Section 51.949 applies
24 to the contract beginning on the date of renewal.

25 (c) As soon as practicable on or after the effective date of
26 this Act, each public institution of higher education to which
27 Section 51.949, Education Code, as added by this Act, applies shall

1 designate an officer or employee of the institution to ensure the
2 institution's compliance with that section.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.