

1-1 By: Ellis, et al. S.B. No. 145  
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,  
1-3 read first time and referred to Committee on Higher Education;  
1-4 April 29, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 4, Nays 0; April 29, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 145 By: West

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the sale by textbook publishers of bundled  
1-11 instructional material for use by students at public institutions  
1-12 of higher education; providing a penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter Z, Chapter 51, Education Code, is  
1-15 amended by adding Section 51.9701 to read as follows:

1-16 Sec. 51.9701. TEXTBOOK BUNDLES. (a) In this section:

1-17 (1) "Coordinating board" means the Texas Higher  
1-18 Education Coordinating Board.

1-19 (2) "Institution of higher education" has the meaning  
1-20 assigned by Section 61.003.

1-21 (3) "Textbook" means a printed book published  
1-22 primarily for the instruction of postsecondary students.

1-23 (4) "Textbook bundle" means a textbook offered for  
1-24 sale in combination with other instructional material, such as:

1-25 (A) additional printed material;

1-26 (B) a computer disk;

1-27 (C) website access; or

1-28 (D) electronically distributed material.

1-29 (5) "University-affiliated bookstore" means a store  
1-30 that:

1-31 (A) sells instructional material, regardless of  
1-32 whether the store is located on the campus of an institution of  
1-33 higher education; and

1-34 (B) is operated by or with the approval of the  
1-35 institution through ownership, a management agreement, a lease or  
1-36 rental agreement, or otherwise.

1-37 (b) A publisher that offers a textbook bundle for sale  
1-38 directly to students enrolled at an institution of higher education  
1-39 or to a university-affiliated bookstore for resale shall:

1-40 (1) also offer for sale to the students or bookstore,  
1-41 as applicable, each individual item of instructional material as a  
1-42 separate, unbundled item; and

1-43 (2) price the individual items in the textbook bundle  
1-44 so that the total cost of purchasing all of the items included in  
1-45 the textbook bundle individually would be the same, or as  
1-46 reasonably close to the same as practicable, as the price of the  
1-47 textbook bundle.

1-48 (c) An institution of higher education shall:

1-49 (1) maintain a record of any publisher that violates  
1-50 Subsection (b); and

1-51 (2) submit the record to the coordinating board, in  
1-52 the time and manner established by coordinating board rule, to use  
1-53 in determining whether to assess an administrative penalty under  
1-54 Subsection (d).

1-55 (d) The coordinating board shall adopt rules under which the  
1-56 coordinating board may impose a reasonable administrative penalty  
1-57 against a publisher that violates this section. The rules must  
1-58 require the coordinating board to provide for a hearing to  
1-59 determine whether a penalty is to be imposed and the amount of any  
1-60 penalty. The coordinating board shall base the amount of any  
1-61 penalty on:

1-62 (1) the seriousness of the violation;

1-63 (2) any history of a previous violation;

2-1                   (3) the amount necessary to deter a future violation;  
2-2                   (4) any effort to correct the violation; and  
2-3                   (5) any other matter justice requires.

2-4           (e) The attorney general may bring an action to collect an  
2-5 administrative penalty that is not paid as directed by the  
2-6 coordinating board.

2-7           (f) Revenue collected from administrative penalties imposed  
2-8 under this section shall be deposited to the credit of the general  
2-9 revenue fund and may be appropriated only to fund the TEXAS grant  
2-10 program administered under Subchapter M, Chapter 56.

2-11           SECTION 2. The changes in law made by this Act apply only to  
2-12 instructional material offered for sale on or after September 1,  
2-13 2010.

2-14           SECTION 3. This Act takes effect January 1, 2010.

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