

1-1 By: Van de Putte S.B. No. 215
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,
1-3 read first time and referred to Committee on Higher Education;
1-4 April 20, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 20, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 215 By: Patrick

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

1-10 relating to the sale of instructional materials to students of
1-11 public institutions of higher education.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter Z, Chapter 51, Education Code, is
1-14 amended by adding Section 51.949 to read as follows:

1-15 Sec. 51.949. FAIR TREATMENT OF INDEPENDENT BOOKSTORES.

1-16 (a) In this section:

1-17 (1) "Institution of higher education" has the meaning
1-18 assigned by Section 61.003.

1-19 (2) "Instructional materials" means any printed or
1-20 computer-generated educational material, including textbooks, or
1-21 any equipment or supplies that a student is required or recommended
1-22 to use in connection with a course at an institution of higher
1-23 education.

1-24 (3) "University-affiliated bookstore" means a store
1-25 that sells instructional materials, regardless of whether the store
1-26 is located on the campus of an institution of higher education, and
1-27 that is operated by or with the approval of the institution through
1-28 ownership or through a management, lease, rental, or similar
1-29 agreement.

1-30 (b) This section does not apply to an institution of higher
1-31 education with a university-affiliated bookstore if the bookstore
1-32 is owned and operated by the institution.

1-33 (c) Each institution of higher education shall make
1-34 available for public inspection through the Internet or in person a
1-35 list of required or recommended instructional materials for a
1-36 semester or other academic term at the same time the institution
1-37 provides the list to the operator of a university-affiliated
1-38 bookstore.

1-39 (d) An institution of higher education shall provide to a
1-40 retailer or other provider of instructional materials that holds a
1-41 sales tax permit issued to the provider under Subchapter F, Chapter
1-42 151, Tax Code, including the operator of a university-affiliated
1-43 bookstore, a variety of opportunities to participate in any
1-44 promotional activities related to the sale or repurchase of
1-45 instructional materials to or from students of the institution. A
1-46 provider of instructional materials, other than an operator of a
1-47 university-affiliated bookstore, may conduct the promotional
1-48 activities described by this subsection only during the following
1-49 periods:

1-50 (1) during the week preceding each semester or summer
1-51 term;

1-52 (2) during the first week of each semester or summer
1-53 term;

1-54 (3) during any student orientation conducted by or for
1-55 the institution; and

1-56 (4) during the two-week period preceding the last
1-57 final examination administered during each semester or summer term.

1-58 (e) If sufficient space is not available for each provider
1-59 of instructional materials, other than an operator of a
1-60 university-affiliated bookstore, that holds a sales tax permit and
1-61 that applies to participate in an activity described by Subsection
1-62 (d), the institution shall provide the available space in the same
1-63 order as those providers applied to participate in the activity.

2-1 (f) Subsections (d) and (e) do not permit any provider of
2-2 instructional materials that is not an operator of a
2-3 university-affiliated bookstore to sell or repurchase
2-4 instructional materials on the campus of the institution.

2-5 (g) An institution of higher education may charge to a
2-6 provider of instructional materials, other than an operator of a
2-7 university-affiliated bookstore, a reasonable fee for
2-8 participation in an activity described by Subsection (d).

2-9 (h) If an institution of higher education works with a
2-10 university-affiliated bookstore to provide a method for the
2-11 extension of credit or the ability of a student to charge or
2-12 otherwise delay the payment of the costs of instructional
2-13 materials, including the extension of credit under Section
2-14 51.929(b), the institution shall provide to any other provider of
2-15 instructional materials to students of the institution that holds a
2-16 sales tax permit issued to the provider under Subchapter F, Chapter
2-17 151, Tax Code, equal access and opportunity to use or develop the
2-18 same or similar method of payment at a reasonable cost to that
2-19 person.

2-20 (i) Subsection (h) does not restrict an institution of
2-21 higher education from adopting or enforcing a policy that is
2-22 necessary to ensure the institution's compliance with a rule or
2-23 policy of the National Collegiate Athletic Association or of
2-24 another organization governing intercollegiate athletic
2-25 competition of which the institution is a member.

2-26 SECTION 2. (a) Section 51.949, Education Code, as added by
2-27 this Act, applies only to a semester or term that begins on or after
2-28 the effective date of this Act.

2-29 (b) Section 51.949, Education Code, as added by this Act,
2-30 does not affect the terms of a contract entered into before the
2-31 effective date of this Act, except that if the contract is renewed,
2-32 modified, or extended on or after the effective date of this Act,
2-33 Section 51.949 applies to the contract beginning on the date of
2-34 renewal, modification, or extension.

2-35 (c) As soon as practicable on or after the effective date of
2-36 this Act, each public institution of higher education to which
2-37 Section 51.949, Education Code, as added by this Act, applies shall
2-38 designate an officer or employee of the institution to ensure the
2-39 institution's compliance with that section.

2-40 SECTION 3. This Act takes effect immediately if it receives
2-41 a vote of two-thirds of all the members elected to each house, as
2-42 provided by Section 39, Article III, Texas Constitution. If this
2-43 Act does not receive the vote necessary for immediate effect, this
2-44 Act takes effect September 1, 2009.

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