

By: Shapiro

S.B. No. 454

A BILL TO BE ENTITLED

AN ACT

relating to measures to increase the affordability of textbooks used for courses at public institutions of higher education; authorizing a penalty.

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

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

SUBCHAPTER I. TEXTBOOKS

Sec. 51.451. DEFINITIONS. In this subchapter:

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

(2) "Custom textbook" means a textbook that is compiled by a publisher at the direction of a faculty member or other person in charge of selecting course materials at an institution of higher education and that may include items such as selections from original instructor materials, previously copyrighted publisher materials, copyrighted third-party works, or elements unique to a specific institution.

(3) "Faculty member" has the meaning assigned by Section 51.917.

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

(5) "Supplemental material," with respect to a textbook, means instructional material developed to accompany the

1 textbook, including printed materials, computer disks, website
2 access, and electronically distributed materials, other than
3 material that is part of an integrated textbook.

4 (6) "Textbook" means a book published primarily for
5 instruction in connection with a particular course or courses
6 offered to postsecondary students by an institution of higher
7 education. The term includes any edition of a textbook or set of
8 textbooks and any item considered supplemental specifically to the
9 textbook, regardless of whether the textbook and supplemental item
10 are sold together or separately.

11 (7) "Textbook bundle" means a textbook offered for
12 sale, at a single price, in combination with other instructional
13 material such as additional printed material, a computer disk,
14 website access, or electronically distributed material. The term
15 does not include a textbook that is combined with other
16 instructional material, all of which is:

17 (A) required to be offered for sale with or as
18 part of the textbook, according to a third-party contractual
19 agreement; or

20 (B) interrelated with the content of the textbook
21 to such a degree that any separation of the material from the
22 textbook would render the textbook unusable for its intended
23 purpose.

24 (8) "University-affiliated bookstore" means a
25 bookstore that:

26 (A) sells textbooks for courses offered to
27 postsecondary students by an institution of higher education,

1 regardless of whether the bookstore is located on the campus of the
2 institution; and

3 (B) is operated by or with the approval of the
4 institution through ownership, a management agreement, a lease or
5 rental agreement, or otherwise.

6 Sec. 51.452. DISSEMINATION OF COURSE SCHEDULE AND LIST OF
7 REQUIRED AND RECOMMENDED TEXTBOOKS. (a) Each institution of
8 higher education shall:

9 (1) for each semester or academic term, compile a
10 course schedule indicating each course offered for the semester or
11 term to postsecondary students by the institution;

12 (2) include with the schedule a list of required and
13 recommended textbooks that specifies, for each textbook in each
14 course, the following information to the extent practicable:

15 (A) the retail price;

16 (B) the author;

17 (C) the publisher;

18 (D) the most recent copyright date; and

19 (E) the International Standard Book Number
20 assigned, if any;

21 (3) at the time required by Subsection (b)(2), publish
22 the course schedule and textbook list in hard copy format and on the
23 institution's Internet website and make the information available
24 to university-affiliated bookstores and other bookstores that
25 generally serve the students of the institution; and

26 (4) as soon as practicable after the information
27 becomes available, disseminate as required by Subdivision (3)

1 specific information regarding any revisions to the institution's
2 course schedule and textbook list.

3 (b) To allow for timely placement of textbook orders by
4 students, each institution of higher education shall:

5 (1) establish a deadline by which faculty members must
6 submit information to be included in the course schedule and
7 textbook list required by Subsection (a); and

8 (2) disseminate the institution's course schedule and
9 textbook list as required by Subsection (a)(3) as soon as
10 practicable after the institution has compiled the schedule and
11 list but not later than the 30th day before the first day that
12 classes are conducted for the semester or other academic term for
13 which the schedule and list are compiled.

14 Sec. 51.453. TEXTBOOK PUBLISHERS: AVAILABILITY OF
15 INFORMATION TO FACULTY CONCERNING TEXTBOOK PRICES, REVISIONS, AND
16 COPYRIGHTS. (a) When a textbook publisher provides information
17 regarding a textbook or supplemental material to a faculty member
18 or other person in charge of selecting course materials at an
19 institution of higher education, the publisher shall also provide
20 to the faculty member or other person written information that
21 includes:

22 (1) the price at which the publisher would make the
23 textbook or supplemental material available to a
24 university-affiliated bookstore or other bookstore that generally
25 serves the students of the institution and, if applicable, to the
26 public;

27 (2) the history of any substantial revisions to the

1 textbook or supplemental material, including the addition of new
2 chapters, new material covering additional time periods, new
3 themes, or new subject matter;

4 (3) the copyright dates of the current and three
5 preceding editions of the textbook;

6 (4) information as to whether the textbook or
7 supplemental material is available in other formats, such as a
8 paperback or unbound version; and

9 (5) the price at which the publisher would make the
10 textbook or supplemental material in any alternative format
11 available to a bookstore described by Subdivision (1) and, if
12 applicable, to the public.

13 (b) A textbook publisher shall comply with this section with
14 respect to a custom textbook only to the extent reasonably
15 practicable.

16 Sec. 51.454. TEXTBOOK BUNDLES. A textbook publisher that
17 offers a textbook bundle for sale directly to students enrolled at
18 an institution of higher education or, for resale purposes, to a
19 university-affiliated bookstore or other bookstore that generally
20 serves the students of the institution shall also offer for sale to
21 the students or bookstore, as applicable, each individual item of
22 instructional material as a separate, unbundled item that is
23 separately priced.

24 Sec. 51.455. ADMINISTRATIVE PENALTY. (a) The coordinating
25 board shall adopt rules under which the coordinating board may
26 impose a reasonable administrative penalty against a textbook
27 publisher that knowingly violates this subchapter. The rules must

1 provide for the coordinating board to hold a hearing to determine
2 whether a penalty is to be imposed and the amount of any penalty.

3 The coordinating board shall base the amount of any penalty on:

- 4 (1) the seriousness of the violation;
5 (2) any history of a previous violation;
6 (3) the amount necessary to deter a future violation;
7 (4) any effort to correct the violation; and
8 (5) any other matter justice requires.

9 (b) The attorney general may bring an action to collect an
10 administrative penalty that is not paid as directed by the
11 coordinating board.

12 Sec. 51.456. TEXTBOOK SCHOLARSHIPS. (a) Revenue collected
13 from administrative penalties imposed under Section 51.455 may be
14 used only for awarding to students enrolled at institutions of
15 higher education scholarships to cover the costs of textbooks and
16 other instructional material.

17 (b) The coordinating board shall adopt rules to administer
18 this section, including rules that establish criteria for awarding
19 scholarships and criteria requiring scholarship recipients to
20 demonstrate financial need.

21 SECTION 2. Subchapter I, Chapter 51, Education Code, as
22 added by this Act, applies beginning with the 2010 fall semester.

23 SECTION 3. This Act takes effect September 1, 2009.