

By: Brown

H.B. No. 537

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) An institution of higher education shall provide to a
8 retailer or other provider of instructional materials that holds a
9 sales tax permit issued to the provider under Subchapter F, Chapter
10 151, Tax Code, including the operator of a university-affiliated
11 bookstore, a variety of opportunities to participate in any
12 promotional activities related to the sale or repurchase of
13 instructional materials to or from students of the institution. A
14 provider of instructional materials, other than an operator of a
15 university-affiliated bookstore, may conduct the promotional
16 activities described by this subsection only during the following
17 periods:

18 (1) during the week preceding each semester or summer
19 term;

20 (2) during the first week of each semester or summer
21 term;

22 (3) during any student orientation conducted by or for
23 the institution; and

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

26 (e) An institution of higher education may not discriminate
27 among providers of instructional materials in providing

1 opportunities to participate in an activity described by Subsection
2 (d). If in relation to a specific activity sufficient space is not
3 available for each provider of instructional materials, other than
4 an operator of a university-affiliated bookstore, that holds a
5 sales tax permit and that applied to participate in the activity,
6 the institution shall provide the available space in the same order
7 as those providers applied to participate in the activity.

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

12 (g) An institution of higher education may charge to a
13 provider of instructional materials, other than an operator of a
14 university-affiliated bookstore, a reasonable fee for
15 participation in an activity described by Subsection (d).

16 (h) If an institution of higher education works with a
17 university-affiliated bookstore to provide a method for the
18 extension of credit or the ability of a student to charge or
19 otherwise delay the payment of the costs of instructional
20 materials, including the extension of credit under Section
21 51.929(b), the institution shall provide to any other provider of
22 instructional materials to students of the institution that holds a
23 sales tax permit issued to the provider under Subchapter F, Chapter
24 151, Tax Code, equal access and opportunity to use or develop the
25 same or similar method of payment at a reasonable cost to that
26 person.

27 (i) Subsection (h) does not restrict an institution of

1 higher education from adopting or enforcing a policy that is
2 necessary to ensure the institution's compliance with a rule or
3 policy of the National Collegiate Athletic Association or of
4 another organization governing intercollegiate athletic
5 competition of which the institution is a member.

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

9 (b) Section 51.949, Education Code, as added by this Act,
10 does not affect the terms of a contract entered into before the
11 effective date of this Act, except that if the contract is renewed,
12 modified, or extended on or after the effective date of this Act,
13 Section 51.949 applies to the contract beginning on the date of
14 renewal, modification, or extension.

15 (c) As soon as practicable on or after the effective date of
16 this Act, each public institution of higher education to which
17 Section 51.949, Education Code, as added by this Act, applies shall
18 designate an officer or employee of the institution to ensure the
19 institution's compliance with that section.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2011.