87R7243 KJE-F

By:  Howard H.B. No. 1707

A BILL TO BE ENTITLED

AN ACT

relating to certain automatic charges for instructional materials assessed to students enrolled at a public institution of higher education.

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

SECTION 1.  Subchapter E, Chapter 54, Education Code, is amended by adding Section 54.5012 to read as follows:

Sec. 54.5012.  CERTAIN AUTOMATIC CHARGES FOR INSTRUCTIONAL MATERIALS. (a) In this section:

(1)  "Instructional material" means content in any medium or combination of media used or intended to be used for conveying information to a student. The term includes a book, supplementary material, computer software, magnetic media, DVD, CD-ROM, computer courseware, online subscription, streaming video, or other means of conveying content to a student or otherwise contributing to the learning process through electronic means and any package or bundle of such media.

(2)  "Open educational resource" has the meaning assigned by Section 51.451.

(b)  An institution of higher education may not assess, or enter into an agreement with an entity that allows the entity to assess, an automatic charge for instructional materials required or recommended for a course or course section to a student enrolled in that course or course section unless:

(1)  the charge is significantly less than the price at which the student could acquire from any generally available source the same or substantially similar instructional materials in a similar format and condition and, if applicable, under similar rental or digital access terms;

(2)  the instructional materials are made available to the student not later than:

(A)  the first day of the semester or term, if the student enrolls in the course or course section at least seven days before the first day of the semester or term; or

(B)  the seventh day after enrollment in the course or course section;

(3)  the institution assesses the charge only if:

(A)  the student opts in to the charge; and

(B)  the instructional materials are not reasonably necessary for a student to participate in or successfully complete the course or course section; and

(4)  the listing for the course or course section in the institution's course schedule under Section 51.452 states or provides an Internet website link to the full amount of the charge separately from any other charges assessed for the course or course section.

(c)  An institution of higher education may not calculate the amount of a charge described by Subsection (b) on any basis other than the cost of the instructional materials unless:

(1)  the institution adopts a policy to ensure that the charge is not assessed to a student for a course or course section for which all required instructional materials are generally available at no cost in at least one form to the student, such as an open educational resource or other materials generally available at no cost through the institution's library or to all students enrolled in the course or course section; and

(2)  the amount of the charge, including any increase in the charge, is approved by a majority vote of the students voting in an election held for that purpose.

(d)  An agreement between an institution of higher education and an entity under which the institution allows the entity to assess a charge described by Subsection (b) to students enrolled at the institution:

(1)  may not provide for a discount or other incentive or a charge or other penalty based on the number or percentage of:

(A)  students to whom the charge is assessed; or

(B)  courses or course sections for which the charge is assessed;

(2)  must prohibit the entity from engaging in or authorizing a third party to engage in, except as specifically provided by the agreement, the sale, disclosure, licensing, use, retention, or other exploitation of any data collected under the agreement, including any personally identifiable information, location data, anonymized data, or materials derived from that data; and

(3)  is public information under Chapter 552, Government Code, and may not be excepted from required disclosure under any applicable exceptions under that chapter.

(e)  An institution of higher education may not deny, or enter into an agreement with an entity that allows the entity to deny, a student enrolled at the institution access to instructional materials for which a charge described by Subsection (b) has been or would otherwise be assessed to the student based on the student's refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of the student's data that may be obtained through the student's use of the instructional materials.

SECTION 2.  (a) Except as provided by Subsection (b) of this section, Section 54.5012, Education Code, as added by this Act, applies beginning with the 2021 fall semester.

(b)  The changes in law made by this Act apply only to an agreement entered into, extended, or renewed on or after September 1, 2021.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.