

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

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

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

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

13           (3) the institution assesses the charge only if:

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

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

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

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

26                   (1) the institution adopts a policy to ensure that the  
27 charge is not assessed to a student for a course or course section

1 for which all required instructional materials are generally  
2 available at no cost in at least one form to the student, such as an  
3 open educational resource or other materials generally available at  
4 no cost through the institution's library or to all students  
5 enrolled in the course or course section; and

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

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

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

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

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

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

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

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

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

13       (b) The changes in law made by this Act apply only to an  
14 agreement entered into, extended, or renewed on or after September  
15 1, 2021.

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