

By: Patterson, Buckley, Burrows, Shaheen,
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H.B. No. 900

Substitute the following for H.B. No. 900:

By: Buckley

C.S.H.B. No. 900

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of library materials sold to or included
in public school libraries.

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

SECTION 1. This Act shall be known as the Restricting
Explicit and Adult-Designated Educational Resources (READER) Act.

SECTION 2. Section 33.021, Education Code, is amended to
read as follows:

Sec. 33.021. LIBRARY STANDARDS. (a) In this section,
"sexually explicit material" means any communication, language, or
material, including a written description, illustration,
photographic image, video image, or audio file, other than library
material directly related to the curriculum required under Section
28.002(a), that describes, depicts, or portrays sexual conduct, as
defined by Section 43.25, Penal Code, in a way that is patently
offensive, as defined by Section 43.21, Penal Code.

(b) The Texas State Library and Archives Commission, in
consultation with the State Board of Education, shall adopt
voluntary standards for school library services, other than
collection development, that a~~[A]~~ school district shall consider
~~[the standards]~~ in developing, implementing, or expanding library
services.

(c) The Texas State Library and Archives Commission, with
approval by majority vote of the State Board of Education, shall

1 adopt standards for school library collection development that a
2 school district shall adhere to in developing or implementing the
3 district's library collection development policies.

4 (d) The standards adopted under Subsection (c) must:

5 (1) be reviewed and updated annually; and

6 (2) include a collection development policy that:

7 (A) prohibits the possession, acquisition, and
8 purchase of:

9 (i) harmful material, as defined by Section
10 43.24, Penal Code;

11 (ii) library material rated sexually
12 explicit material by the selling library material vendor; or

13 (iii) library material that is pervasively
14 vulgar or educationally unsuitable as referenced in *Pico v. Board*
15 *of Education*, 457 U.S. 853 (1982);

16 (B) recognizes that obscene content is not
17 protected by the First Amendment to the United States Constitution;

18 (C) is required for all library materials
19 available for use or display, including material contained in
20 school libraries, classroom libraries, and online catalogs;

21 (D) recognizes that parents are the primary
22 decision makers regarding a student's access to library material;

23 (E) encourages schools to provide library
24 catalog transparency; and

25 (F) recommends schools communicate effectively
26 with parents regarding collection development.

27 SECTION 3. Subtitle F, Title 2, Education Code, is amended

1 by adding Chapter 35 to read as follows:

2 CHAPTER 35. REGULATION OF CERTAIN LIBRARY MATERIAL

3 Sec. 35.001. DEFINITIONS. In this chapter:

4 (1) "Library material vendor" includes any entity that
5 sells library material to a public primary or secondary school in
6 this state.

7 (2) "Sexually explicit material" has the meaning
8 assigned by Section 33.021.

9 (3) "Sexually relevant material" means any
10 communication, language, or material, including a written
11 description, illustration, photographic image, video image, or
12 audio file, other than library material directly related to the
13 curriculum required under Section 28.002(a), that describes,
14 depicts, or portrays sexual conduct, as defined by Section 43.25,
15 Penal Code.

16 Sec. 35.002. RATINGS REQUIRED. (a) A library material
17 vendor may not sell library materials to a school district or
18 open-enrollment charter school unless the vendor has issued
19 appropriate ratings regarding sexually explicit material and
20 sexually relevant material previously sold to a district or school.

21 (b) A library material vendor may not sell library material
22 rated sexually explicit material and shall issue a recall for all
23 copies of library material sold to a district or school that is:

24 (1) rated sexually explicit material; and

25 (2) in active use by the district or school.

26 (c) Not later than September 1, 2023, each library material
27 vendor shall develop and submit to the agency a list of library

1 material rated as sexually explicit material or sexually relevant
2 material sold by the vendor to a school district or open-enrollment
3 charter school before that date and still in active use by the
4 district or school.

5 (d) Not later than September 1 of each year, each library
6 material vendor shall submit to the agency an updated list of
7 library material rated as sexually explicit material or sexually
8 relevant material sold by the vendor to a school district or
9 open-enrollment charter school during the preceding year and still
10 in active use by the district or school.

11 (e) The agency shall post each list submitted under
12 Subsection (c) or (d) in a conspicuous place on the agency's
13 Internet website as soon as practicable.

14 Sec. 35.003. AGENCY REVIEW. (a) The agency may review
15 library material sold by a library material vendor that is not rated
16 or incorrectly rated by the vendor as sexually explicit material,
17 sexually relevant material, or no rating in accordance with Section
18 35.002(a). If the agency determines that the library material is
19 required to be rated as sexually explicit material or sexually
20 relevant material or to receive no rating at all under that
21 subsection, the agency shall provide written notice to the vendor.
22 The notice must include information regarding the vendor's duty
23 under this section and provide the corrected rating required for
24 the library material.

25 (b) Not later than the 60th day after the date on which a
26 library material vendor receives notice regarding library material
27 under Subsection (a), the vendor shall:

1 (1) rate the library material according to the
2 agency's corrected rating; and

3 (2) notify the agency of the action taken under
4 Subdivision (1).

5 (c) The agency shall post and maintain in a conspicuous
6 place on the agency's Internet website a list of library material
7 vendors who fail to comply with Subsection (b).

8 (d) A school district or open-enrollment charter school may
9 not purchase library material from a library material vendor on the
10 list described by Subsection (c).

11 (e) A library material vendor placed on the list described
12 by Subsection (c) may petition the agency for removal from the list.
13 The agency may remove a vendor from the list only if the agency is
14 satisfied that the vendor has taken appropriate action under
15 Subsection (b).

16 Sec. 35.004. LIABILITY. A school district or
17 open-enrollment charter school or a teacher, librarian, or other
18 staff member employed by a district or school is not liable for any
19 claim or damage resulting from a library material vendor's
20 violation of this chapter.

21 Sec. 35.005. PARENTAL CONSENT REQUIRED FOR USE OF CERTAIN
22 LIBRARY MATERIALS. A school district or open-enrollment charter
23 school may not allow a student enrolled in the district or school to
24 reserve, check out, or otherwise use outside the school library
25 library material the library material vendor has rated as sexually
26 relevant material under Section 35.002(a) unless the district or
27 school first obtains written consent from the student's parent or

1 person standing in parental relation.

2 Sec. 35.006. REVIEW AND REPORTING OF CERTAIN LIBRARY
3 MATERIALS. (a) Not later than August 1 of every even-numbered
4 year, each school district and open-enrollment charter school
5 shall:

6 (1) review the content of each library material in the
7 catalog of a district or school library that is rated as sexually
8 relevant material under Section 35.002(a) by the library material
9 vendor;

10 (2) determine in accordance with the district's or
11 school's policies regarding the approval, review, and
12 reconsideration of school library materials whether to retain each
13 library material reviewed under Subdivision (1) in the school
14 library catalog; and

15 (3) either:

16 (A) post in a conspicuous place on the Internet
17 website maintained by the district or school a report; or

18 (B) provide physical copies of the report at the
19 central administrative building for the district or school.

20 (b) The report required under Subsection (a)(3) must
21 include:

22 (1) the title of each library material reviewed under
23 Subsection (a)(1);

24 (2) the district's or school's decision regarding the
25 library material under Subsection (a)(2); and

26 (3) the school or campus where the library material is
27 currently located.

1 Sec. 35.007. RULES. The commissioner may adopt rules as
2 necessary to administer this chapter.

3 SECTION 4. (a) Not later than October 1, 2023, each library
4 material vendor, as defined by Section 35.001, Education Code, as
5 added by this Act, shall submit the initial list required under
6 Section 35.002(c), Education Code, as added by this Act.

7 (b) Not later than August 1, 2024, each school district and
8 open-enrollment charter school shall conduct the initial content
9 review and submit the initial report required under Section
10 35.006(a), Education Code, as added by this Act.

11 SECTION 5. The changes in law made by this Act to the
12 Education Code apply beginning with the 2023-2024 school year.

13 SECTION 6. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2023.