

By: Patterson

H.B. No. 1655

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of books 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, photographic image, video image, or audio file, excluding library material directly related to required curriculum, as referenced in Section 28.002, Education Code, that describes or portrays sexual conduct, as defined by Section 43.25, Penal Code, in a patently offensive way, 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 from the State Board of Education, shall adopt standards

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

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

5 (1) be reviewed and, if appropriate, updated at least  
6 twice each year; and

7 (2) include a collection development policy that:

8 (A) prohibits the acquisition of harmful  
9 material, as defined by Section 43.24, Penal Code;

10 (B) prohibits the possession, acquisition, and  
11 purchasing of books rated sexually explicit material;

12 (C) permits the exclusion from a school library  
13 of materials that are pervasively vulgar or educationally  
14 unsuitable; and

15 (D) recognizes that obscene content is not  
16 protected by the First Amendment to the United States Constitution.

17 SECTION 3. Subchapter B, Chapter 33, Education Code, is  
18 amended by adding Section 33.024 to read as follows:

19 Sec. 33.024. PARENTAL CONSENT REQUIRED FOR ACCESS TO  
20 SEXUALLY RELEVANT LIBRARY MATERIALS. (a) In this section,  
21 "sexually relevant material" means any communication, language, or  
22 material, including a written description, photographic image,  
23 video image, or audio file, excluding library material directly  
24 related to required curriculum, as referenced in Section 28.002,  
25 Education Code, that describes or portrays sexual conduct, as  
26 defined by Section 43.25, Penal Code.

27 (b) A school district or open-enrollment charter school may

1 not allow a student enrolled in the district or school to access  
2 sexually relevant materials in the catalog of a school library at  
3 the district or school unless the district or school first obtains  
4 written consent from the student's parent or person standing in  
5 parental relation.

6 SECTION 4. Subtitle F, Title 2, Education Code, is amended  
7 by adding Chapter 35 to read as follows:

8 CHAPTER 35. RESTRICTIONS ON SEXUALLY RELEVANT AND EXPLICIT BOOKS

9 Sec. 35.001. DEFINITIONS. In this chapter:

10 (1) "School book vendor" includes any entity that  
11 sells a book to a public primary or secondary school in this state.

12 (2) "Sexually explicit material" has the meaning  
13 assigned by Section 33.021(a).

14 (3) "Sexually relevant material" has the meaning  
15 assigned by Section 33.024(a).

16 Sec. 35.002. RATING REQUIRED. (a) A school book vendor may  
17 not sell a book to a school district or open-enrollment charter  
18 school before issuing appropriate ratings related to sexually  
19 relevant material and sexually explicit material.

20 (b) A school book vendor may not sell a book containing  
21 sexually explicit material to a school district or open-enrollment  
22 charter school.

23 (c) Not later than September 1, 2023, each school book  
24 vendor shall develop and submit to the agency a list of each book  
25 containing sexually relevant material or sexually explicit  
26 material sold by the vendor to a school district or open-enrollment  
27 charter school before that date.

1       (d) Not later than September 1 of each year, each school  
2 book vendor shall submit to the agency a list of books rated as  
3 sexually relevant material or sexually explicit material, that were  
4 sold by the vendor to a school district or open-enrollment charter  
5 school during the preceding year.

6       (e) The agency shall post each list submitted under  
7 Subsection (b) or (c) on the agency's Internet website as soon as  
8 practicable.

9       Sec. 35.003. AGENCY REVIEW. (a) The agency may review a  
10 book not rated by a school book vendor as sexually relevant material  
11 or sexually explicit material in accordance with Section 35.002(a).  
12 If the agency determines that the book is required to be rated as  
13 sexually relevant material or sexually explicit material under that  
14 subsection, the agency shall provide written notice to the vendor.  
15 The notice must include information regarding the vendor's duty  
16 under this section.

17       (b) Not later than the 60th day after the date on which a  
18 school book vendor receives notice for a book under Subsection (a),  
19 the vendor shall:

20               (1) either:

21                       (A) rate the book as sexually relevant material  
22 in accordance with Section 35.002(a); or

23                       (B) rate the book as sexually explicit material  
24 in accordance with Section 35.002(a) and cease all sales of the book  
25 to a school district or open-enrollment charter school and issue a  
26 recall for all copies of the book sold to a school district or  
27 open-enrollment charter school; and

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

3           (c) The agency shall maintain on the agency's Internet  
4 website a list of school book vendors who fail to comply with  
5 Subsection (b).

6           (d) A school district or open-enrollment charter school may  
7 not purchase a book from a school book vendor on the list described  
8 by Subsection (c).

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

14           Sec. 35.005. LIABILITY. A school district or  
15 open-enrollment charter school is not liable for any claim or  
16 damage resulting from a school book vendor's violation of this  
17 chapter.

18           Sec. 35.006. REVIEW AND REPORTING OF SEXUALLY RELEVANT  
19 LIBRARY BOOKS. (a) Not later than August 1 of every fifth year,  
20 each school district and open-enrollment charter school shall:

21           (1) review the content of each book in the catalog of a  
22 district or school library that is rated as sexually relevant  
23 material under Section 35.002(a) or included on a list submitted to  
24 the agency under Section 35.002(b) or (c);

25           (2) determine in accordance with the district's or  
26 school's policies regarding the approval, review, and  
27 reconsideration of school library materials whether to retain each

1 book reviewed under Subdivision (1) in the school library catalog;  
2 and

3 (3) submit to the agency a report on the district's or  
4 school's actions under this subsection that includes:

5 (A) the title of each book reviewed under  
6 Subdivision (1); and

7 (B) the district's or school's decision regarding  
8 the book under Subdivision (2).

9 (b) Not later than August 1 of each year, each school  
10 district or open-enrollment charter school shall submit to the  
11 agency a report listing each book rated as sexually relevant  
12 material under Section 35.002(a) that was added to the catalog of a  
13 district or school library during the preceding year.

14 (c) The agency shall post on the agency's Internet website a  
15 report submitted under this section as soon as practicable after  
16 the report is received.

17 Sec. 35.007. RULES. The commissioner may adopt rules as  
18 necessary to administer this chapter.

19 SECTION 5. (a) Not later than August 1, 2024, each school  
20 district and open-enrollment charter school shall conduct the  
21 initial content review and submit the initial report required under  
22 Section 35.006(a), Education Code, as added by this Act.

23 (b) Not later than September 1, 2023, each school book  
24 vendor, as defined by Section 35.001, Education Code, as added by  
25 this Act, shall submit the initial list required under Section  
26 35.002(c), Education Code, as added by this Act.

27 (c) Not later than August 1, 2025, each school district and

1 open-enrollment charter school shall submit the initial report  
2 required under Section 35.006(b), Education Code, as added by this  
3 Act.

4 SECTION 6. The changes in law made by this Act to the  
5 Education Code apply beginning with the 2023-2024 school year.

6 SECTION 7. (a) This act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.

9 (b) If this Act does not receive the vote necessary for  
10 immediate effect, this Act takes effect September 1, 2023.