

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 929 Session of 2009

INTRODUCED BY DINNIMAN, PICCOLA AND WILLIAMS, JUNE 5, 2009

AS AMENDED ON SECOND CONSIDERATION, JUNE 21, 2010

AN ACT

1 Providing for the sale of certain course materials at
2 institutions of higher education, for responsibilities of
3 faculty and institutions of higher education and for college
4 textbook rental pilot programs; and establishing the College
5 Textbook Policies Advisory Committee.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the College
10 Textbook Affordability, Accountability and Accessibility Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Advisory committee." The College Textbook Policies Advisory
16 Committee established under this act.

17 "Bundle." One or more college textbooks or other
18 supplemental materials that may be packaged together to be sold
19 as course materials for one price.

20 "Campus." The grounds and buildings of an institution of

1 higher education that are designated as such by the institution
2 of higher education.

3 "Campus bookstore." The bookstore on the campus of, or
4 otherwise associated with, an institution of higher education.

5 "College textbook." A textbook or set of textbooks used for,
6 or in conjunction with, a course in postsecondary education at
7 an institution of higher education.

8 "Custom textbook." A college textbook that is compiled by a
9 publisher at the direction of a faculty member or other person
10 or adopting entity in charge of selecting course materials at an
11 institution of higher education and may include, alone or in
12 combination, items, such as selections from original instructor
13 materials, previously copyrighted publisher materials or
14 copyrighted third-party works. This term does not include purely
15 aesthetic changes to a textbook when compared with a prior
16 edition, such as a commemorative edition.

17 "Institution of higher education" or "institution." Any of
18 the 14 State-owned universities that are part of the
19 Pennsylvania State System of Higher Education, including the
20 four State-related universities. The term also includes
21 community colleges that are members of the Pennsylvania
22 Commission for Community Colleges and independent or private
23 colleges or universities that receive an assistance grant under
24 the act of July 18, 1974 (P.L.483, No.174), known as The
25 Institutional Assistance Grants Act.

26 "INTEGRATED TEXTBOOK." A COLLEGE TEXTBOOK THAT IS:

27 (1) COMBINED WITH SUPPLEMENTAL MATERIALS DEVELOPED BY A
28 THIRD PARTY AND THAT, BY THIRD-PARTY CONTRACTUAL AGREEMENT,
29 MAY NOT BE OFFERED BY PUBLISHERS SEPARATELY FROM THE COLLEGE
30 TEXTBOOK WITH WHICH THE SUPPLEMENTAL MATERIALS ARE COMBINED;



1 OR

2 (2) COMBINED WITH SUPPLEMENTAL MATERIALS THAT ARE SO
3 INTERRELATED WITH THE CONTENT OF THE TEXTBOOK THAT THE
4 SEPARATION OF THE TEXTBOOK FROM THE SUPPLEMENTAL MATERIALS
5 WOULD RENDER THE TEXTBOOK UNUSABLE FOR ITS INTENDED PURPOSE.

6 "ISBN." International Standard Book Number.

7 "Publisher." An entity that publishes college textbooks or
8 supplemental materials and markets college textbooks or
9 supplemental materials to faculty members at institutions of
10 higher education. The term does not include a wholesaler.

11 "Substantial content." Parts of a college textbook, such as
12 new chapters, additional eras of time, new themes or new subject
13 matter.

14 "Supplemental material." Educational material developed to
15 accompany a college textbook, which may include printed
16 materials, computer disks, Internet website access and
17 electronically distributed materials.

18 Section 3. Publisher requirements.

19 (a) Pricing information disclosure.--When a publisher
20 provides a faculty member or entity in charge of selecting
21 course materials at an institution of higher education with
22 information regarding a college textbook or supplemental
23 material, the publisher shall include, in writing or
24 electronically, the following:

25 (1) The price at which the publisher would make the
26 college textbook or supplemental material available to the
27 campus bookstore of the institution of higher education.

28 (2) The copyright dates of the three previous editions
29 of the college textbook or supplemental material in the
30 preceding ten years, if any.

1 (3) The substantial content revisions made between the
2 current edition of the college textbook or supplemental
3 material and the previous edition, if any.

4 (4) Whether the college textbook or supplemental
5 material is available in any other format, including
6 paperback and unbound, and the price at which the publisher
7 would make the college textbook or supplemental material in
8 the other format available to the campus bookstore of such
9 institution of higher education.

10 (b) Unbundling of college textbooks from supplemental
11 materials.--

12 (1) A publisher that sells a college textbook and any
13 supplemental material accompanying the college textbook as a
14 bundle OR AS AN INTEGRATED TEXTBOOK shall also make available ←
15 the college textbook and each supplemental material as
16 separate and unbundled items, each separately priced.

17 (2) A publisher is not required to make available
18 supplemental items developed by a third party and that, by
19 third-party contractual agreement, may not be offered by the
20 publisher separately from the college textbook.

21 (c) Custom textbooks.--When a faculty member or entity in
22 charge of selecting course materials at an institution of higher
23 education directs a publisher to compile a custom textbook, the
24 publisher shall provide, in writing or electronically, prior to
25 accepting an order for the custom textbook, the price at which
26 the publishers would make the custom textbook available to the
27 campus bookstore.

28 Section 4. Faculty responsibilities.

29 (a) General duties.--A faculty member or entity in charge of
30 selecting college textbooks, supplemental materials or bundled

1 textbook packages for an institution of higher education shall:

2 (1) Consider the least costly practices in assigning
3 college textbooks, consistent with educationally sound
4 practices as determined by the appropriate faculty or entity.

5 (2) Consider the use of college textbooks, supplemental
6 materials and bundled textbook packages for a longer period
7 of time, to the extent they are not outdated.

8 (3) Work with bookstores to review timeliness and the
9 processes involved in ordering and stocking selected course
10 materials, disclose college textbook costs to students and
11 actively promote and publicize book buyback programs.

12 (4) Provide a statement to the entity designated by the
13 president or chancellor of the institution to disseminate the
14 information required under section 5(a) detailing college
15 textbooks or supplemental learning materials, whether bundled
16 or unbundled, that are required or recommended for the
17 course. Where possible, the statement shall indicate if an
18 earlier edition may be effective for use by a student.

19 (5) Encourage participation in college textbook rental
20 programs that exist or may exist in the future.

21 (b) Prohibited conduct by faculty and academic
22 departments.--

23 (1) No faculty member or academic department may demand
24 or receive any payment, loan, subscription, advance, deposit
25 of money, services or any thing, present or promised, as an
26 inducement for requiring students to purchase a specific
27 college textbook required for coursework or instruction.

28 (2) Notwithstanding the provisions of paragraph (1), a
29 faculty member or academic department may receive:

30 (i) Sample copies, instructor's copies or

1 instructional material.

2 (ii) Royalties or other compensation from the sale
3 of college textbooks that include the writing or work of
4 the particular faculty member or academic department.

5 (3) A violation of this subsection may result in the
6 institution taking disciplinary action, subject to any
7 contractual requirements, against the faculty member or
8 academic department, including, where appropriate, referral
9 to law enforcement.

10 (c) Construction.--Nothing in this section shall be
11 construed:

12 (1) To prohibit a faculty member or academic department
13 from requiring the most recent edition of a college textbook.

14 (2) To supersede the institutional autonomy or academic
15 freedom of instructors, faculty members or academic
16 departments involved in the selection of college textbooks,
17 supplemental materials and other classroom materials.

18 Section 5. Responsibilities of institutions of higher
19 education.

20 (a) General rule.--Except as otherwise provided in this
21 section, each institution shall make available at student
22 registration and throughout the year on its Internet website and
23 upon written request a listing of all college textbooks and
24 supplemental materials, including the ISBN, required and
25 recommended for courses to be offered during the upcoming term,
26 provided that:

27 (1) If the ISBN is not available, the institution shall
28 include the author, title, edition, publisher and copyright
29 date for the college textbook or supplemental material.

30 (2) If the institution determines that the disclosure of

1 the information relating to a college textbook or
2 supplemental material is not practicable, then the
3 institution shall so indicate by placing the designation "To
4 Be Determined" in lieu of the information required in
5 paragraph (1). As this information becomes available, it
6 shall be posted on the institution's Internet website and
7 provided as soon as possible to students and those who have
8 previously requested such information.

9 (b) Publication.--The institution shall provide the
10 information required under subsections (a) and (d) to existing
11 and accepted incoming students by posting the information on the
12 institution's Internet website used for course scheduling,
13 preregistration and registration. The institution shall inform,
14 in writing, students and all others who make a written request
15 for such information of the availability of the information. The
16 posting of this information on the Internet website of the
17 campus bookstore shall satisfy the provisions of this section
18 provided that such information is freely available to students
19 and the general public.

20 (c) Information to bookstore.--An institution of higher
21 education shall make available to a bookstore that is operated
22 by, or in a contractual relationship or otherwise affiliated
23 with, the institution, and shall also make available to off-
24 campus bookstores upon request, as soon as practicable after the
25 request of the bookstore, the most accurate information
26 available relating to:

27 (1) The institution's course schedule for the subsequent
28 academic period.

29 (2) For each course or class offered by the institution
30 for the subsequent academic period:

1 (i) The information required by subsection (a) for
2 each college textbook or supplemental material required
3 or recommended for the course or class.

4 (ii) The number of students enrolled in such course
5 or class.

6 (iii) The maximum student enrollment for such course
7 or class.

8 (d) Dissemination of other information to students.--An
9 institution of higher education is encouraged to disseminate to
10 students information relating to:

11 (1) Available programs for renting college textbooks or
12 for purchasing used college textbooks.

13 (2) Available college textbook buyback programs.

14 (3) Available alternative content delivery programs,
15 including digital textbooks.

16 (4) Other available cost-saving strategies for acquiring
17 college textbooks and supplemental materials.

18 (5) Campus and off-campus bookstore information, to the
19 extent available, including location, hours and Internet
20 website information.

21 (e) Textbook information.--Nothing in this section shall be
22 construed to prohibit or restrict the ability of a bookstore
23 from also providing textbook information to students.

24 Section 6. College textbook rental program.

25 (a) General rule.--An institution of higher education may,
26 with the approval of the administration, authorize the
27 establishment of a college textbook rental program for the
28 students of any campus. Programs may receive and use Federal,
29 State and private funding to aid in the establishment of such
30 programs.

1 (b) Task force.--The administrators of a campus with a
2 college textbook rental program may convene a task force to
3 determine recommended policies and procedures to establish and
4 operate a college textbook rental pilot program. The task force
5 must include students, faculty, administrators and bookstore
6 managers.

7 (c) Textbook selection.--The program may not limit the
8 rights of faculty to select appropriate textbooks in accordance
9 with established policies and procedures.

10 (d) Powers of campuses with college textbook rental
11 programs.--The administrators of a campus with a college
12 textbook rental program may:

13 (1) Establish policies for the program, including, but
14 not limited to, implementing practices to achieve the best
15 possible purchase price for college textbooks and for the
16 provision of rental services. Such policies shall be
17 developed with the input of faculty, students and bookstores.

18 (2) Institute other procedures necessary to establish
19 and operate the program in accordance with the provisions of
20 this act.

21 (3) Charge students a fine for any late, lost or
22 damaged books, as determined by the program, provided that
23 students may not be charged a fine for normal textbook wear
24 and tear.

25 (4) Students shall not be required to participate in a
26 textbook rental program.

27 (e) Construction.--Nothing in this section shall be
28 construed to:

29 (1) change or limit any textbook rental program or
30 program in existence at an institution of higher education

1 prior to the enactment date of this act; or

2 (2) restrict an institution of higher education from
3 establishing or piloting other textbook rental models or
4 programs as deemed appropriate by the institution of higher
5 education.

6 Section 7. Electronic versions of college textbooks.

7 (a) General rule.--No later than January 1, 2020, an
8 individual, firm, partnership or corporation that publishes
9 college textbooks offered for sale at institutions of higher
10 education shall, to the extent practicable, make the college
11 textbooks available, in whole or in part, for sale in an
12 electronic format when commercially reasonable.

13 (b) Construction.--Nothing in this section shall be
14 construed to authorize any use of instructional materials that
15 would constitute an infringement of copyright under Federal law.

16 (c) Definition.--For purposes of this section, "college
17 textbook" means a book, not including a novel, that contains
18 printed material and is intended for use as a source of study
19 material for a class or group of students, a copy of which is
20 expected to be available for the use of each of the students in
21 that class or group.

22 Section 8. College textbook adoption policies.

23 (a) General rule.--An institution of higher education may
24 implement policies, procedures and guidelines that promote
25 efforts to minimize the cost of college textbooks for students
26 at the institution while maintaining the quality of education
27 and academic freedom. The policies, procedures and guidelines
28 shall ensure that:

29 (1) The adoption of a college textbook by a faculty
30 member is made with sufficient lead time so as to confirm

1 availability of the requested materials and, where possible,
2 ensure maximum availability of used college textbooks.

3 (2) (i) During the college textbook adoption process,
4 the intent to use all items ordered, particularly each
5 individual item sold as part of a bundled package, is
6 affirmatively confirmed before the adoption is finalized
7 by the faculty member.

8 (ii) If the faculty member does not intend to use
9 each item in a bundled package, the faculty member shall
10 notify the bookstore, and the bookstore shall order the
11 individualized items if:

12 (A) Procurement of the individualized items is
13 cost effective for both the institution and the
14 students.

15 (B) The individualized items are made available
16 by the publisher.

17 (3) Faculty members affirmatively acknowledge the quoted
18 retail price to the bookstore of any college textbook
19 selected for use in each course.

20 (4) Faculty members shall give due consideration to both
21 the educational value and cost of new edition college
22 textbooks and any supplemental materials when previous
23 editions do not significantly differ in a substantive way, as
24 determined by the appropriate faculty member.

25 (5) Required or assigned college textbooks are made
26 available to students who are otherwise unable to afford the
27 cost.

28 (6) Decisions regarding textbook adoption are made in a
29 timely manner to ensure a bookstore's ability to have
30 textbooks available for the first day of class.

1 Section 9. College Textbook Policies Advisory Committee.

2 (a) Establishment.--A standing committee of the State Board
3 of Education to be known as the College Textbook Policies
4 Advisory Committee is established. The Department of Education
5 shall provide staff support for the advisory committee.

6 (b) Membership.--The advisory committee shall be comprised
7 of:

8 (1) The Deputy Secretary for Higher Education of the
9 Department of Education or a designee.

10 (2) The chairman of the State Board of Education Higher
11 Education Council or a designee.

12 (3) One faculty member representing the State System of
13 Higher Education as recommended by the Chancellor of the
14 State System of Higher Education.

15 (4) One faculty member representing each of the State-
16 related institutions as recommended by the chancellors of the
17 State-related institutions.

18 (5) One faculty member representing community colleges
19 as recommended by the Commission for Community Colleges.

20 (6) One faculty member representing private and
21 independent colleges and universities as recommended by the
22 Association of Independent Colleges and Universities of
23 Pennsylvania.

24 (7) The chairman and minority chairman of the Education
25 Committee of the Senate and the chairman and minority
26 chairman of the House of Representatives or their designees.

27 (8) Nine members appointed by the chairman of the State
28 Board of Education as follows:

29 (i) Three members representing college bookstores,
30 with one representing campus bookstores, one representing

1 off-campus bookstores and one representing online
2 bookstores that focus primarily on the sale of college
3 textbooks.

4 (ii) Two members representing textbook publishers.

5 (iii) Four student members representing college
6 students, of whom one must attend a State System of
7 Higher Education institution, one must attend a
8 State-related institution, one must attend a community
9 college and one must attend an independent or private
10 college or university within this Commonwealth. The
11 student members shall be appointed, respectively, by the
12 chairman from a list of students recommended by the
13 Chancellor of the State System of Higher Education, the
14 chancellors of the State-related institutions, the
15 Commission for Community Colleges or the Association of
16 Independent Colleges and Universities of Pennsylvania.

17 (9) One member possessing a background in information
18 technology-electronic media appointed by the chairman of the
19 State Board of Education.

20 (c) Recommendations.--The advisory committee shall examine
21 national and international efforts relating to college textbook
22 affordability and accessibility and make recommendations that:

23 (1) Ensure that students have access to affordable
24 course materials by decreasing costs to students and
25 enhancing transparency and disclosure with respect to the
26 selection, purchase, sale and use of course materials.

27 (2) Identify ways to decrease the cost of college
28 textbooks and supplemental materials for students while
29 supporting the academic freedom of faculty members to select
30 high quality course materials for students.

1 (3) Encourage college textbook publishers and
2 distributors to work with faculty to promote understanding of
3 the cost to students of purchasing faculty-selected college
4 textbooks, including the disclosure of prices and bundling
5 practices.

6 (4) Encourage innovation in the development and use of
7 course materials, including open-source college textbooks and
8 other open-source educational resources, that can help
9 students receive the full value of their educational
10 investment without excessive cost.

11 (5) Ensure that faculty members are informed of accurate
12 and relevant pricing information for course materials and
13 that students are protected as a consumer group.

14 (6) Make recommendations to the General Assembly and the
15 State Board of Education to strengthen existing State laws
16 and regulations and to propose any additional and necessary
17 State laws and regulations.

18 (d) First meeting.--The advisory committee shall hold its
19 first meeting within 60 days of the effective date of this
20 section. The advisory committee shall meet at least once
21 quarterly. Members of the advisory committee shall serve without
22 compensation. The deputy secretary for Higher Education of the
23 Department of Education shall serve as committee chair.

24 (e) Report.--No later than 18 months after the effective
25 date of this section, the advisory committee shall make a report
26 to the State Board of Education that outlines its findings and
27 recommendations. The report shall also be delivered to the
28 Governor's Office, members of the Education Committee of the
29 Senate and members of the Education Committee of the House of
30 Representatives. The report shall be updated every three years

1 and may also be posted on the Department of Education's Internet
2 website.

3 Section 10. Effective date.

4 This act shall take effect July 1, 2010, or immediately,
5 whichever is later.