



Ohio Legislative Service Commission

Bill Analysis

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H.B. 472

128th General Assembly
(As Introduced)

Reps. Lundy and Patten, Hite, Murray, Phillips, Belcher, Foley, Harwood, Hagan, Pryor, Bolon, Letson, Heard, Yuko

BILL SUMMARY

- Prohibits bookstores from ordering or selling bundled textbooks and supplemental learning materials.
- Requires bookstores to post the wholesale cost of new textbooks.
- Prohibits bookstores, during the period between academic terms, from buying back used textbooks for resale at less than half the original sale price.
- Exempts the sale of textbooks and written supplemental materials from the state sales tax.
- Prohibits professors, faculty, instructors, or other employees of a state institution of higher education from profiting from the sale of textbooks or other materials used in class, other than from authorship royalties.
- Requires the Chancellor of the Board of Regents to issue a plan for publishers to provide electronic versions of textbooks.
- Requires the Chancellor to create and implement a bulk textbook purchasing program.
- Requires the Chancellor to develop pilot textbook rental programs at two or more state institutions of higher education.
- Names the bill the "Textbook Affordability Act."

CONTENT AND OPERATION

Sale of textbooks at state university or college bookstores

(R.C. 3346.02, 3346.04, and 3346.05; Section 5)

The bill establishes several provisions directing how a bookstore that is affiliated or under contract with a state institution of higher education¹ may sell textbooks, supplemental learning materials,² or other school-related supplies on or "in the near vicinity" of the campus of that state institution.

First, the bill prohibits an affiliated or contract bookstore from bundling a textbook and supplemental learning materials together into one package to be sold for one price. It also prohibits a school bookstore from ordering bundled packages from publishers.

Second, under the bill, an affiliated or contract bookstore must post the wholesale cost of each new textbook sold at the bookstore at or near the front counter of the bookstore or on the bookstore's or institution's web site.

Finally, the bill prohibits an affiliated or contract bookstore from buying back used textbooks or other learning materials for resale at less than half the price the student originally paid to purchase them. But this prohibition only applies during the period between the completion of the semester or quarter in which the textbook or learning materials were used and the start of the next semester or quarter. Moreover, the bill prohibits a bookstore from entering into or renewing any contract with a publisher or other textbook purchaser or reseller that conflicts with the bill's repurchase provisions. However, a bookstore already under contract with a publisher or other entity on the bill's effective date is exempt from the prohibition until the existing contract expires.

¹ Under R.C. 3345.011 (not in the bill), "state institution of higher education" includes any state university or college, community college, state community college, university branch, or technical college.

² The bill defines "supplemental learning materials" as any learning materials used in teaching a course that supplement the primary textbook. Supplemental learning materials may be available in different formats such as another book, workbook, or CD-ROM. (R.C. 3346.01(E).)

Sales tax exemption

(R.C. 5739.02)

The bill exempts the sale of textbooks and written supplemental materials required for coursework at *any public or private* institution of higher education in Ohio from the state sales tax.

Faculty profits

(R.C. 3346.03)

The bill prohibits a professor, faculty member, instructor, or other employee of a state institution of higher education from profiting from the sale of textbooks or other materials used in a class, other than royalties from authorship. However, the bill specifies that neither free supplemental learning materials nor training for use of technology related to use of a textbook for instruction are considered "profit" for purposes of this prohibition.

Electronic books

(R.C. 3346.07)

The bill requires the Chancellor of the Board of Regents to issue a plan for publishers to provide electronic versions, if legally available,³ of each textbook used as the main text of a class. The Chancellor must negotiate with publishers in developing the plan. The plan must be issued within two years of the bill's effective date. The Chancellor may subsequently negotiate or modify the plan.

Within the negotiations and plan development, the Chancellor also must require that publishers provide electronic versions of required textbooks in formats accessible to students with disabilities. Acceptable formats include Braille translation or speech synthesis software. These provisions of the plan must be implemented as soon as practicable, but not later than the start of the first academic year commencing two years after the bill's effective date.

The bill requires publishers to comply with the plan and bookstores to sell the electronic versions made available under the plan. A publisher also must ensure that the structural integrity of the printed version of a textbook is maintained in the electronic version, but may incorporate security measures in the electronic version that prevent unauthorized copying, modification, distribution, or use.

³ Reportedly, some authors may not permit the publication of their works in electronic formats.

Bulk purchasing program

(R.C. 3346.06)

The board of trustees of each state institution of higher education annually must provide to the Chancellor a list of the textbooks, and their respective costs, used at the institution. From these lists, the Chancellor must create and implement a bulk purchasing program for the most commonly used books. The program must include a method for reselling the books to students to reflect the savings resulting from bulk purchasing.

The Chancellor and the Board of Regents also must meet annually to review the reports from institutions and to monitor their efforts to encourage faculty members to be sensitive to the costs of textbooks when selecting books for use in class and to make textbooks more affordable.

Textbook rental pilot programs

(Section 4)

The bill requires the Chancellor to develop two-year pilot textbook rental programs at two or more state institutions of higher education to commence not later than the start of the 2011-2012 academic year. Each rental program must be optional to students and designed to be financially self-sustaining. The Chancellor must submit a report to the General Assembly within one year after completion of the programs. The report must include implementation strategies for textbook rental programs at all state institutions of higher education and recommendations for further action by the General Assembly. Each institution that participates in a pilot program may establish policies and procedures for the program and must report annually to the General Assembly and the Chancellor presenting the procedures used, resultant savings, and participant comments.

Short title

(Section 3)

The bill specifies that its provisions are to be known as the "Textbook Affordability Act."

COMMENT

The federal Higher Education Opportunity Act (Public Law 110-315), among other things, includes a number of provisions dealing with textbook affordability at

institutions of higher education that receive federal funding. The act's college textbook provisions, which take effect July 1, 2010, are described below:⁴

(1) When providing a faculty member or other person in charge of selecting course materials with information regarding a college textbook or supplemental material, publishers must provide the price for which the book would be sold at a campus bookstore; the copyright dates of the three previous editions, if any; a description of the substantial content revisions between the current edition and the previous edition, if any; and whether the textbook is available in any other format and the price at which the publisher would sell that other format.

(2) Publishers that offer bundled college textbooks also must make available each piece in the bundle for sale separately.

(3) Each institution must disclose on the institution's Internet course schedule, the International Standard Book Number (ISBN) and retail price of required and recommended textbooks for all courses listed in the course schedule.

(4) Each institution must make available to its college bookstore (a) the institution's course schedule for the subsequent academic period, (b) ISBN information and the price of required and recommended textbooks and supplemental materials for each course in the subsequent academic period, (c) the number of students enrolled in each course or class, and (d) the maximum student enrollment for each course or class.

(5) The federal act also "encourages" institutions to disseminate to students information regarding available textbook rental programs, guaranteed textbook buy-back programs, alternative content delivery, and other institutional cost saving strategies.

(6) Finally, the act requires the U.S. Comptroller General, by July 1, 2013, to submit a report on the implementation of the act by institutions, including information on the costs and benefits to institutions and students.

HISTORY

ACTION	DATE
Introduced	03-23-10

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⁴ The textbook provisions are codified at 20 United States Code 1015b.

