

HB1056/835963/1

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 1056
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Wood” and substitute “Wood, and Krebs”; in line 8, strike “procedures” and substitute “guidelines”; in line 9, after “formats,” insert “establishing the duties of the Committee; providing for the termination of the Committee; providing for the content of certain guidelines;”; strike beginning with “authorizing” in line 9 down through “requests;” in line 10; and in line 15, after “Act;” insert “requiring a certain electronic format to have certain characteristics; requiring a publisher to submit a certain electronic format containing certain characteristics under certain circumstances; providing for the content of a certain request to a certain publisher; requiring certain publishers to provide the Library with certain material at no cost and in a timely manner; authorizing certain publishers to request a copy of a certain agreement containing certain information; establishing certain technological security requirements for certain material by certain persons; requiring certain persons to make a request of certain publishers using a certain procedure; exempting certain persons from certain request procedures; authorizing an institution to assist certain students in transcribing certain materials into a braille copy; providing that certain institutions have a right to share a certain braille copy with certain students at the institution;”.

On page 2, in line 2, after “Act;” insert “providing that certain publishers may not be required to perform certain acts that may constitute infringement of a copyright or provide certain electronic formats under certain circumstances;”; and in line 8, strike “11-905” and substitute “11-906”.

AMENDMENT NO. 2

On page 2, in line 21, strike “**STANDARDS**” and substitute “**GUIDELINES**”; after line 21, insert:

(Over)

“(C) (1) “INSTRUCTIONAL MATERIAL” MEANS TEXTBOOKS AND OTHER MATERIALS WRITTEN AND PUBLISHED PRIMARILY FOR USE BY STUDENTS IN POSTSECONDARY INSTRUCTION THAT ARE REQUIRED OR ESSENTIAL TO A STUDENT’S SUCCESS IN A COURSE OF STUDY IN WHICH A STUDENT WITH A DISABILITY IS ENROLLED.

(2) “INSTRUCTIONAL MATERIAL” DOES NOT INCLUDE MATERIALS FOR WHICH SOFTWARE IS NOT COMMERCIALY AVAILABLE AT A REASONABLE PRICE TO PERMIT THE CONVERSION OF EXISTING ELECTRONIC FILES OF THE MATERIALS INTO A FORMAT THAT IS COMPATIBLE WITH BRAILLE TRANSLATION SOFTWARE OR ALTERNATIVE MEDIA FOR STUDENTS WITH DISABILITIES, INCLUDING MATHEMATICS AND SCIENCE MATERIALS.”;

in line 22, strike “(C)” and substitute “(D)”; after line 23, insert:

“(E) “PRINTED INSTRUCTIONAL MATERIAL” MEANS INSTRUCTIONAL MATERIAL IN BOOK OR OTHER PRINTED FORM.

(F) (1) “STRUCTURAL INTEGRITY” MEANS MATERIAL COMPOSED OF ALL OF THE TEXTUAL PRINTED INSTRUCTIONAL MATERIAL.

(2) “STRUCTURAL INTEGRITY” INCLUDES THE TEXT OF THE MATERIAL, SIDEBARS, THE TABLE OF CONTENTS, CHAPTER HEADINGS AND SUBHEADINGS, FOOTNOTES, INDEXES, GLOSSARIES, AND BIBLIOGRAPHIES.

(3) “STRUCTURAL INTEGRITY” DOES NOT INCLUDE MATERIAL COMPOSED OF NONTEXTUAL ELEMENTS SUCH AS PICTURES, ILLUSTRATIONS, GRAPHS, OR CHARTS.”;

in line 29, strike “STANDARDS” and substitute “GUIDELINES”; in line 30, strike “THE” and substitute “:

(1) THE SECRETARY OF HIGHER EDUCATION, OR THE SECRETARY’S DESIGNEE;

(2) THE SECRETARY OF DISABILITIES, OR THE SECRETARY’S DESIGNEE;

(3) THE STATE SUPERINTENDENT, OR THE STATE SUPERINTENDENT’S DESIGNEE; AND

(4) THE;

in the same line, strike “11” and substitute “14”; and in the same line, after “MEMBERS” insert “APPOINTED BY THE GOVERNOR”.

AMENDMENT NO. 3

On page 3, in line 1, strike “(1)” and substitute “(I)”; in the same line, strike “APPOINTED BY” and substitute “REPRESENTING”; in line 2, strike “(2)” and substitute “(II)”; in the same line, strike “TWO” and substitute “FIVE”; in the same line, strike “APPOINTED BY” and substitute “REPRESENTING PUBLISHERS OF TEXTBOOKS USED IN HIGHER EDUCATION WHO MAY INCLUDE REPRESENTATIVES OF”; in line 3, strike “AND” and substitute:

“(III) THREE MEMBERS, ONE REPRESENTING EACH OF THE FOLLOWING INSTITUTIONS OF HIGHER EDUCATION:

1. THE UNIVERSITY SYSTEM OF MARYLAND;

(Over)

2. A COMMUNITY COLLEGE; AND

3. A PRIVATE, 4-YEAR INSTITUTION OF HIGHER EDUCATION;

strike in their entirety lines 4 through 12, inclusive; strike beginning with “APPOINTED” in line 19 down through “GOVERNOR” in line 20 and substitute “**FROM MARYLAND ORGANIZATIONS REPRESENTING BLIND OR OTHER PERSONS WITH PRINT DISABILITIES**”; after line 22, insert:

“(D) THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COMMITTEE.

(E) (1) A MEMBER OF THE COMMITTEE SHALL SERVE FOR A PERIOD OF 3 YEARS.

(2) THE COMMITTEE SHALL EXPIRE ON DECEMBER 1, 2010.

(F) THE DEPARTMENT, THE DEPARTMENT OF DISABILITIES, AND THE MARYLAND HIGHER EDUCATION COMMISSION SHALL PROVIDE STAFF FOR THE COMMITTEE.”;

in line 23, strike “(D)” and substitute “**(G) (1)**”; in the same line, strike “ESTABLISH PROCEDURES” and substitute “:

(I) ASSIST THE LIBRARY IN ESTABLISHING GUIDELINES”;

and in lines 25 and 26, strike “IN A FORMAT THAT IS USABLE TO THEM” and substitute “;

(II) REVIEW THE GUIDELINES ESTABLISHED UNDER ITEM (I) OF THIS PARAGRAPH EACH YEAR; AND

(III) ASSIST THE LIBRARY IN REVISING THE GUIDELINES AS NECESSARY BASED ON CHANGES IN TECHNOLOGY OR ANY OTHER PERTINENT FACTORS.

(2) THE GUIDELINES SHALL INCLUDE:

(I) A METHOD BY WHICH A COURSE INSTRUCTOR, IN CONSULTATION WITH THE INDIVIDUAL AT THE LIBRARY OR INSTITUTION DESIGNATED TO MAKE THE REQUEST FOR MATERIALS UNDER THIS SUBTITLE, DESIGNATES WHICH COURSE MATERIALS ARE CONSIDERED REQUIRED OR ESSENTIAL TO STUDENT SUCCESS;

(II) A DETERMINATION OF THE AVAILABILITY OF TECHNOLOGY FOR THE CONVERSION OF MATHEMATICS AND SCIENCE MATERIALS;

(III) THE PROCEDURES AND STANDARDS RELATING TO DISTRIBUTION OF FILES AND MATERIALS;

(IV) AVAILABLE ELECTRONIC FORMATS;

(V) A LIST OF JUSTIFICATIONS FOR WHICH A PUBLISHER MAY REASONABLY BE EXEMPTED FROM COMPLYING WITH THE PROVISIONS OF THIS SUBTITLE;

(VI) PROCEDURES FOR GRANTING A PUBLISHER AN EXEMPTION WHEN IT IS DETERMINED THAT A PUBLISHER IS UNABLE TO

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COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE FOR A JUSTIFIABLE REASON INCLUDED IN THE LIST REQUIRED UNDER ITEM (V) OF THIS PARAGRAPH;

(VII) A REQUIREMENT THAT THE REVIEW OF THE FUTURE RECOMMENDATIONS OF THE ALTERNATIVE FORMATS SOLUTIONS INITIATIVE OF THE ASSOCIATION OF AMERICAN PUBLISHERS DETERMINE WHETHER TO RECOMMEND THE INCORPORATION OF THESE RECOMMENDATIONS INTO THE GUIDELINES; AND

(VIII) ANY OTHER INFORMATION THE COMMITTEE DETERMINES TO BE RELEVANT”.

AMENDMENT NO. 4

On page 4, strike in their entirety lines 1 through 3, inclusive; in lines 4, 11, 19, and 25, strike “(B)”, “(C)”, “(D)”, and “(E)”, respectively, and substitute “(A)”, “(B)”, “(C)”, and “(D)”, respectively; in line 11, strike “ON” and substitute “EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ON OR AFTER JANUARY 1, 2008, ON”; strike beginning with “AND” in line 7 down through “EDUCATION” in line 8; strike beginning with “ELECTRONICALLY” in line 9 down through “COMMITTEE” in line 10 and substitute “IN AN ELECTRONIC FORMAT”; in line 11, strike “(B)” and substitute “(A)”; in lines 12, 17, and 22, in each instance, strike “10” and substitute “15”; in lines 15, 17, 21, and 26, in each instance, strike “DESIGNATED BY THE COMMITTEE”; in line 15, strike the first “THE” and substitute “AN”; in lines 16 and 23, in each instance, strike the second “THE” and substitute “AN”; in line 19, strike “(E)” and substitute “(D)”; in line 20, strike “(C)(2)” and substitute “(B)(2)”; in the same line, strike “THE” and substitute “AN”; in line 23, strike “WHEN” and substitute “:

(1) WHEN;

in line 24, strike “DESIGNATED BY THE COMMITTEE” and substitute “; OR

(2) THE SPECIFIC REASON, CONSISTENT WITH THE GUIDELINES ESTABLISHED UNDER § 11-902(D) OF THIS SUBTITLE, WHY THE INSTRUCTIONAL MATERIALS MAY NOT BE PROVIDED TO THE LIBRARY WITHIN THE REQUIRED TIME FRAME;

in line 26, strike the first “THE” and substitute “AN”; in line 28, strike “FOR” and substitute “BY”; in the same line, strike “PURPOSES”; in line 29, strike “2007” and substitute “2004”; and after line 29, insert:

“11-904.

(A) THE ELECTRONIC FORMAT OF PRINTED INSTRUCTIONAL MATERIAL PROVIDED BY A PUBLISHER TO THE LIBRARY FOR USE BY A STUDENT WITH A DISABILITY UNDER THIS SUBTITLE SHALL:

(1) MAINTAIN THE STRUCTURAL INTEGRITY OF THE PRINTED INSTRUCTIONAL MATERIAL;

(2) BE COMPATIBLE WITH COMMONLY USED BRAILLE TRANSLATION OR SPEECH SYNTHESIS SOFTWARE, IF NECESSARY; AND

(3) INCLUDE CORRECTIONS AND REVISIONS AS NECESSARY.

(B) IF THE LIBRARY AND A PUBLISHER CANNOT IN GOOD FAITH AGREE ON AN ELECTRONIC FORMAT THAT MAINTAINS THE STRUCTURAL INTEGRITY OF THE PRINTED INSTRUCTIONAL MATERIAL AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE PUBLISHER SHALL PROVIDE THE INSTRUCTIONAL MATERIAL IN AN ELECTRONIC FORMAT THAT MAINTAINS AS MUCH OF THE

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STRUCTURAL INTEGRITY OF THE PRINTED INSTRUCTIONAL MATERIAL AS POSSIBLE.

(C) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, THE LIBRARY OR INSTITUTION SHALL SUBMIT TO A PUBLISHER A WRITTEN REQUEST FOR AN ELECTRONIC FORMAT OF INSTRUCTIONAL MATERIAL THAT INCLUDES:

(1) CERTIFICATION THAT THE INSTITUTION HAS PURCHASED THE PRINTED INSTRUCTIONAL MATERIAL FOR USE BY A STUDENT WITH A DISABILITY OR THAT A STUDENT WITH A DISABILITY ATTENDING OR REGISTERED TO ATTEND THE INSTITUTION HAS PURCHASED THE INSTRUCTIONAL MATERIAL;

(2) CERTIFICATION THAT THE STUDENT HAS A DISABILITY THAT PREVENTS THE STUDENT FROM USING STANDARD INSTRUCTIONAL MATERIALS;

(3) CERTIFICATION THAT THE ELECTRONIC FORMAT OF THE PRINTED INSTRUCTIONAL MATERIAL WILL BE USED BY A STUDENT IN CONNECTION WITH A COURSE IN WHICH THE STUDENT IS REGISTERED OR ENROLLED AT THE INSTITUTION; AND

(4) THE SIGNATURE OF THE INDIVIDUAL DESIGNATED BY THE LIBRARY OR INSTITUTION TO REQUEST THE ELECTRONIC FORMAT OF THE INSTRUCTIONAL MATERIAL UNDER THIS SUBTITLE.

(D) ON RECEIPT OF A WRITTEN REQUEST UNDER SUBSECTION (C) OF THIS SECTION, THE PUBLISHER SHALL PROVIDE THE LIBRARY WITH THE ELECTRONIC FORMAT OF THE PRINTED INSTRUCTIONAL MATERIAL AT NO ADDITIONAL COST AND IN A TIMELY MANNER.

(E) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, A PUBLISHER RECEIVING A WRITTEN REQUEST UNDER SUBSECTION (C) OF THIS SECTION MAY REQUIRE THE LIBRARY TO PROVIDE THE PUBLISHER WITH A COPY OF AN AGREEMENT THAT:

(1) STATES THAT THE STUDENT REQUESTING AND USING THE ELECTRONIC FORMAT OF THE INSTRUCTIONAL MATERIAL PROVIDED BY THE PUBLISHER WILL USE THE MATERIAL SOLELY FOR THE STUDENT'S PERSONAL EDUCATIONAL USE;

(2) STATES THAT THE STUDENT HAS AGREED NOT TO COPY, DUPLICATE, OR DISTRIBUTE THE ELECTRONIC COPY OF THE INSTRUCTIONAL MATERIAL FOR USE BY OTHER INDIVIDUALS; AND

(3) IS SIGNED BY THE STUDENT REQUESTING AND USING THE ELECTRONIC COPY.

(F) (1) IF THE LIBRARY OR AN INSTITUTION PERMITS A STUDENT TO DIRECTLY USE THE ELECTRONIC FORMAT OF THE INSTRUCTIONAL MATERIAL, THE LIBRARY OR INSTITUTION SHALL TAKE THE FOLLOWING STEPS TO PROTECT THE ELECTRONIC COPY FROM DUPLICATION AND DISTRIBUTION IN VIOLATION OF THE COPYRIGHT REVISIONS ACT OF 1976:

(I) THE DISK OR FILE SHALL BE COPY-PROTECTED OR CONTAIN OTHER REASONABLE SECURITY MEASURES; AND

(II) THE LIBRARY OR INSTITUTION SHALL REQUIRE A STUDENT USING THE ELECTRONIC COPY TO SIGN THE AGREEMENT UNDER SUBSECTION (E) OF THIS SECTION.

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(2) AN INSTITUTION MAY NOT MAKE THE ELECTRONIC FORMAT OF THE INSTRUCTIONAL MATERIAL AVAILABLE ON A SERVER UNLESS THE FOLLOWING SECURITY MEASURES ARE FOLLOWED:

(I) A SECURITY PROCESS, INCLUDING AN IDENTIFICATION AND PASSWORD SYSTEM, IS INSTALLED TO PERMIT ONLY AUTHORIZED STUDENTS WITH DISABILITIES ACCESS TO THE PROTECTED MATERIALS; AND

(II) OTHER TECHNICAL SECURITY MEASURES ARE INSTALLED TO PREVENT A STUDENT FROM DOWNLOADING THE ELECTRONIC FORMAT OF THE INSTRUCTIONAL MATERIAL UNLESS THE STUDENT HAS SIGNED THE AGREEMENT UNDER SUBSECTION (E) OF THIS SECTION.

(3) A PUBLISHER MAY INSTALL TECHNICAL SECURITY MEASURES TO PREVENT THE UNAUTHORIZED COPYING, MODIFICATION, DISTRIBUTION, OR USE OF THE ELECTRONIC FORMAT OF THE INSTRUCTIONAL MATERIAL IF THE SECURITY MEASURES DO NOT INTERFERE WITH THE STUDENT'S USE OF ELECTRONIC COPY.

(G) (1) THE LIBRARY, AN INSTITUTION, OR ANY COMPONENT OF AN INSTITUTION SHALL NOTIFY THE PUBLISHER EACH TIME THE LIBRARY, INSTITUTION, OR A COMPONENT OF THE INSTITUTION INTENDS TO DUPLICATE AN ELECTRONIC FORMAT OR A SPECIALIZED FORMAT PRODUCED FROM THE ELECTRONIC FORMAT FOR USE OF THE PROTECTED MATERIAL BY OTHER STUDENTS WITH DISABILITIES.

(2) FOR EACH ADDITIONAL STUDENT FOR WHOM THE LIBRARY, AN INSTITUTION, OR A COMPONENT OF AN INSTITUTION INTENDS TO DUPLICATE AN ELECTRONIC FORMAT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE

LIBRARY, INSTITUTION, OR COMPONENT OF AN INSTITUTION SHALL FOLLOW THE REQUEST PROCEDURES UNDER § 11-903 OF THIS SUBTITLE.

(H) (1) AN INSTITUTION MAY ASSIST A STUDENT WITH A DISABILITY TO TRANSCRIBE OR ARRANGE FOR THE TRANSCRIPTION OF PRINTED INSTRUCTIONAL MATERIAL INTO BRAILLE USING THE ELECTRONIC FORMAT OF THE INSTRUCTIONAL MATERIAL.

(2) IF A BRAILLE COPY IS TRANSCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE INSTITUTION SHALL HAVE THE RIGHT TO SHARE THE BRAILLE COPY OF THE PRINTED INSTRUCTIONAL MATERIAL WITH OTHER STUDENTS WITH DISABILITIES AT THE INSTITUTION.

(I) (1) A MEMBER OF THE FACULTY OF AN INSTITUTION OF HIGHER EDUCATION:

(I) MAY REQUEST FROM THE LIBRARY INSTRUCTIONAL MATERIALS IN AN ELECTRONIC FORMAT; AND

(II) IS NOT REQUIRED TO SIGN AN AGREEMENT SPECIFIED UNDER SUBSECTION (E) OF THIS SECTION.

(2) FOR A REQUEST ON BEHALF OF A FACULTY MEMBER, THE LIBRARY IS NOT REQUIRED TO PROVIDE TO A PUBLISHER THE CERTIFICATIONS SPECIFIED UNDER SUBSECTION (C) OF THIS SECTION.”.

AMENDMENT NO. 5

On page 5, in line 1, strike “**11-904.**” and substitute “**11-905.**”; in line 6, strike “**11-905.**” and substitute “**11-906.**”; in line 7, before “**NOTHING**” insert “**(A)**”; in line 8, strike “**OR**” and substitute a comma; in the same line, after “**LIBRARY**” insert “**, OR**”

(Over)

A PUBLISHER OF INSTRUCTIONAL MATERIALS"; in the same line, strike "CONVERT" and substitute ":

(1) CONVERT;

in line 9, after "STUDENTS" insert ";OR

(2) REQUIRE A PUBLISHER TO PROVIDE ANY FORMAT OTHER THAN AN ELECTRONIC FORMAT PROVIDED UNDER § 11-903 OF THIS SUBTITLE.

(B) A PUBLISHER OF INSTRUCTIONAL MATERIAL MAY NOT BE REQUIRED TO:

(1) PERFORM ANY ACT THAT WOULD CONSTITUTE AN INFRINGEMENT OF A COPYRIGHT UNDER THE COPYRIGHT REVISION ACT OF 1976;

(2) PROVIDE AN ELECTRONIC FORMAT OF INSTRUCTIONAL MATERIAL IF THE PUBLISHER:

(I) PUBLISHES OR MANUFACTURES A VERSION OF THE INSTRUCTIONAL MATERIAL THAT IS ACCESSIBLE TO STUDENTS WITH DISABILITIES;

(II) CHOOSES TO PROVIDE AN ELECTRONIC FORMAT OF INSTRUCTIONAL MATERIAL DIRECTLY TO A STUDENT IN A TIMELY MANNER; OR

(III) HAS NOT PREVIOUSLY PRODUCED A DIGITAL VERSION OF THE FULLY EDITED AND TYPESET INSTRUCTIONAL MATERIAL, INCLUDING

**INSTRUCTIONAL MATERIAL PRODUCED BY A METHOD THAT DOES NOT REQUIRE
THE CREATION OF A DIGITAL FILE; OR**

**(3) PROVIDE AN ELECTRONIC FORMAT OF INSTRUCTIONAL
MATERIAL THAT IS NO LONGER IN PRINT OR AVAILABLE AND OFFERED FOR
SALE BY THE PUBLISHER**;

and in line 17, strike “June” and substitute “October”.