

SENATE BILL 183

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CF HB 85

By: **Senators Pinsky, Rosapepe, Brochin, Conway, Dyson, Forehand, Frosh, Harrington, Kramer, Lenett, Madaleno, Peters, ~~and Raskin~~ Raskin, and Klausmeier**

Introduced and read first time: January 22, 2009

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 25, 2009

CHAPTER _____

1 AN ACT concerning

2 **College Textbook Competition and Affordability Act of 2009**

3 FOR the purpose of requiring certain institutions of higher education to develop and
4 implement informational campaigns, ~~certain textbook adoption processes,~~
5 certain procedures relating to certain disclosures and certain affirmations, and
6 certain best practices processes; requiring certain institutions to develop a
7 certain process for the ~~affirmation and~~ acknowledgment by certain faculty of
8 certain information; requiring certain publishers to disclose certain information
9 in certain formats relating to certain prices, certain textbook-related
10 information, certain content revisions, certain other formats, and certain
11 variances in price; requiring, subject to a certain exception, certain publishers
12 and certain bookstores to provide and sell certain textbooks and certain
13 supplemental material in a certain manner and to work with certain faculty
14 members to find certain alternatives under certain circumstances; requiring
15 certain textbooks and certain supplemental material to be available in certain
16 packages; requiring certain institutions to provide certain information to certain
17 bookstores under certain circumstances, subject to certain notifications;
18 requiring certain institutions to make certain information available by posting
19 it on certain websites on or before a certain time; prohibiting certain
20 institutions from encouraging or promoting the creation or sale of certain types
21 of textbooks; requiring certain institutions to allow certain bookstores to
22 advertise and have certain access to certain students under certain
23 circumstances; providing for a certain exception to the provisions of this Act;
24 providing for the construction of this Act; ~~requiring certain institutions to make~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~certain reports to the Maryland Higher Education Commission regarding~~
 2 ~~certain analyses of certain textbook prices and certain other information on or~~
 3 ~~before a certain date; requiring the Commission to compile certain reports and~~
 4 ~~forward the compilation to the Governor and the General Assembly on or before~~
 5 ~~a certain date; requiring certain institutions to report regarding certain efforts~~
 6 ~~to lower the cost of certain textbooks, certain policies developed in accordance~~
 7 ~~with this Act, and certain recommendations; requiring the Commission, in~~
 8 ~~consultation with certain stakeholders, to conduct certain feasibility studies on~~
 9 ~~or before a certain date; requiring the University System of Maryland to~~
 10 ~~conduct a certain study regarding certain business models and report the~~
 11 ~~results of the study to the Board of Regents and the General Assembly; defining~~
 12 ~~certain terms; and generally relating to the sale of college textbooks.~~

13 BY adding to
 14 Article – Education
 15 Section 15–112
 16 Annotated Code of Maryland
 17 (2008 Replacement Volume)

18 Preamble

19 WHEREAS, In 2005, the federal Government Accountability Office (GAO)
 20 reported that during the period of December 1986 through December 2004, college
 21 textbook prices increased 186% and inflation increased only 72%; and

22 WHEREAS, The textbook market is supply–driven rather than demand–driven
 23 and consequently offers consumers (students) no role in determining price, format, or
 24 quality of the product; and

25 WHEREAS, The State of Maryland has passed legislative initiatives to control
 26 the cost of tuition but not to control the cost of textbooks; now, therefore,

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article – Education**

30 **15–112.**

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 32 MEANINGS INDICATED.

33 (2) (I) **“BOOKSTORE” MEANS ANY ENTITY THAT OFFERS BOOKS**
 34 **OR OTHER COURSE MATERIALS FOR SALE AND IS LICENSED BY THE**
 35 **COMPROLLER UNDER TITLE 11, SUBTITLE 7 OF THE TAX – GENERAL**
 36 **ARTICLE.**

1 (II) "BOOKSTORE" INCLUDES CAMPUS BOOKSTORES AND
2 ONLINE VENDORS.

3 (3) (I) "BUNDLE" MEANS ONE OR MORE COLLEGE TEXTBOOKS
4 OR OTHER SUPPLEMENTAL MATERIAL THAT ARE PACKAGED TOGETHER TO BE
5 SOLD AS COURSE MATERIALS FOR ONE PRICE.

6 (II) "BUNDLE" DOES NOT INCLUDE SINGLE, ~~CUSTOM, OR~~
7 ~~INTEGRATED OR CUSTOM~~ TEXTBOOKS.

8 (4) "CAMPUS BOOKSTORE" MEANS A BOOKSTORE UNDER THE
9 JURISDICTION OF AN INSTITUTION OF HIGHER EDUCATION.

10 (5) (I) "CUSTOM TEXTBOOK" MEANS A COLLEGE TEXTBOOK
11 THAT IS COMPILED BY A PUBLISHER AT THE DIRECTION OF A FACULTY MEMBER
12 OR OTHER PERSON OR ADOPTING ENTITY IN CHARGE OF SELECTING COURSE
13 MATERIALS AT AN INSTITUTION OF HIGHER EDUCATION.

14 (II) "CUSTOM TEXTBOOK" INCLUDES ORIGINAL
15 INSTRUCTOR MATERIAL, PREVIOUSLY COPYRIGHTED MATERIAL, OR
16 COPYRIGHTED THIRD-PARTY MATERIAL, OR ELEMENTS UNIQUE TO A SPECIFIC
17 INSTITUTION, SUCH AS COMMEMORATIVE EDITIONS.

18 (III) "CUSTOM TEXTBOOK" DOES NOT INCLUDE PURELY
19 AESTHETIC CHANGES TO A COLLEGE TEXTBOOK WHEN COMPARED WITH A
20 PRIOR EDITION OF A COLLEGE TEXTBOOK SUCH AS COMMEMORATIVE EDITIONS.

21 (6) ~~"INTEGRATED TEXTBOOK" MEANS A COLLEGE TEXTBOOK~~
22 ~~THAT IS COMBINED WITH:~~

23 (i) ~~MATERIALS DEVELOPED BY A THIRD PARTY AND THAT,~~
24 ~~BY THIRD PARTY CONTRACTUAL AGREEMENT, MAY NOT BE OFFERED BY~~
25 ~~PUBLISHERS SEPARATELY FROM THE COLLEGE TEXTBOOK WITH WHICH THE~~
26 ~~MATERIALS ARE COMBINED; OR~~

27 (ii) ~~OTHER MATERIALS THAT ARE SO INTERRELATED WITH~~
28 ~~THE CONTENT OF THE COLLEGE TEXTBOOK THAT THE SEPARATION OF THE~~
29 ~~COLLEGE TEXTBOOK FROM THE OTHER MATERIALS WOULD RENDER THE~~
30 ~~COLLEGE TEXTBOOK UNUSABLE FOR ITS INTENDED PURPOSE.~~

31 (7) (6) "ISBN" MEANS THE UNIQUE INTERNATIONAL
32 STANDARD BOOK NUMBER ASSIGNED TO A COLLEGE ~~TEXTBOOK~~ COURSE
33 MATERIAL THAT IS USED BY PUBLISHERS TO IDENTIFY EACH TEXTBOOK
34 EDITION AND PRINTING OF A COLLEGE TEXTBOOK OTHER COURSE MATERIAL,
35 INCLUDING BUNDLES.

1 **(7) "PRICE" MEANS THE PRICE AT WHICH THE PUBLISHER**
2 **WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL**
3 **AVAILABLE TO A BOOKSTORE, OR AND, IF AVAILABLE, THE PRICE AT WHICH THE**
4 **PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL**
5 **MATERIAL AVAILABLE TO THE PUBLIC, OR BOTH.**

6 **(8) "SUBSTANTIAL CONTENT" MEANS A PART OF A COLLEGE**
7 **TEXTBOOK, SUCH AS NEW CHAPTERS, NEW MATERIAL COVERING ADDITIONAL**
8 **ERAS OF TIME, NEW THEMES, OR NEW SUBJECT MATTER.**

9 **(9) (I) "SUPPLEMENTAL MATERIAL" MEANS EDUCATIONAL**
10 **MATERIAL DEVELOPED TO ACCOMPANY A COLLEGE TEXTBOOK ~~THAT IS NOT~~**
11 **~~BEING USED AS A COMPONENT OF AN INTEGRATED TEXTBOOK.~~**

12 **(II) "SUPPLEMENTAL MATERIAL" INCLUDES PRINTED**
13 **MATERIALS AND ELECTRONIC MATERIALS SUCH AS COMPUTER DISKS AND WEB**
14 **ACCESS CODES.**

15 **(10) "TEXTBOOK" INCLUDES CUSTOM TEXTBOOKS TO THE**
16 **MAXIMUM EXTENT PRACTICABLE.**

17 **(B) THIS SECTION DOES NOT APPLY TO THE OVERSEAS PROGRAMS OF**
18 **THE UNIVERSITY OF MARYLAND UNIVERSITY COLLEGE.**

19 **(C) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE**
20 **SHALL DEVELOP AND IMPLEMENT:**

21 **(1) AN INFORMATIONAL CAMPAIGN TO ASSIST FACULTY AND**
22 **MAKE THEM AWARE OF TEXTBOOK-RELATED ISSUES, INCLUDING:**

23 **(I) ~~WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF~~**
24 **~~ANY, THE PRICE OF COLLEGE TEXTBOOKS AND OF SUPPLEMENTAL MATERIAL;~~**

25 **(II) VARIANCES IN ~~WHOLESALE PRICE AND SUGGESTED~~**
26 **~~RETAIL PRICES, IF ANY, PRICE OF BUNDLED AND UNBUNDLED COURSE~~**
27 **MATERIALS;**

28 **(III) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN**
29 **THE CURRENT EDITION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL**
30 **MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR**
31 **SUPPLEMENTAL MATERIAL AS REPORTED TO THE INSTITUTION UNDER**
32 **SUBSECTION (E) OF THIS SECTION; AND**

1 (IV) THE FISCAL IMPACT TO STUDENTS OF THE HIGH COST
2 OF COLLEGE TEXTBOOKS;

3 ~~(2) A COLLEGE TEXTBOOK ADOPTION PROCESS THAT INCLUDES~~
4 ~~THE PROVISION OF INFORMATION TO INSTITUTIONS AND CAMPUS BOOKSTORES~~
5 ~~REGARDING THE AVAILABILITY AND SUGGESTED RETAIL PRICES OF NEW~~
6 ~~CURRENT EDITIONS, USED CURRENT EDITIONS, NEW PREVIOUS EDITIONS, AND~~
7 ~~USED PREVIOUS EDITIONS OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL~~
8 ~~MATERIAL;~~

9 ~~(3)~~ (2) A PROCEDURE BY WHICH BOOKSTORES AND STUDENTS
10 ARE MADE AWARE OF THE INFORMATION REQUIRED TO BE DISCLOSED UNDER
11 SUBSECTION (G) OF THIS SECTION; AND

12 ~~(4)~~ (3) A BEST-PRACTICES PROCESS FOR FACULTY IN
13 SELECTING COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL THAT:

14 (I) ENSURES EARLY ADOPTION OF COLLEGE TEXTBOOKS
15 AND SUPPLEMENTAL MATERIAL;

16 (II) ENCOURAGES THE MAXIMUM USAGE OF USED COLLEGE
17 TEXTBOOKS AND OF PREVIOUS EDITIONS OF COLLEGE TEXTBOOKS, WHEN
18 POSSIBLE;

19 (III) FOR UNDERGRADUATE COLLEGE TEXTBOOKS, ENSURES
20 THAT THE MAJORITY OF THE ASSIGNED MATERIAL WILL BE USED IN THE
21 COURSE UNLESS IT WOULD BE IN THE STUDENT'S FINANCIAL INTEREST TO
22 PURCHASE SEPARATE MATERIALS; AND

23 (IV) ENSURES THAT FACULTY ARE AWARE OF VARIOUS
24 OUTLETS FOR THE SUPPLY OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL
25 MATERIAL.

26 (D) (1) EACH PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL
27 DEVELOP A PROCESS BY WHICH FACULTY MEMBERS ~~AFFIRM AND~~
28 ACKNOWLEDGE THE INFORMATION UNDER PARAGRAPH (2) OF THIS
29 SUBSECTION.

30 (2) BEFORE IDENTIFYING A COLLEGE TEXTBOOK OR
31 SUPPLEMENTAL MATERIAL AND BEFORE TRANSMITTING THE SELECTION TO A
32 CAMPUS BOOKSTORE, PROVIDING THE SELECTION TO ANY OTHER BOOKSTORE,
33 OR POSTING THE SELECTION ON THE WEBSITE OF THE PUBLIC INSTITUTION OF
34 HIGHER EDUCATION, A FACULTY MEMBER SHALL:

1 (I) IF SELECTING A DIFFERENT COLLEGE TEXTBOOK FROM
2 A DIFFERENT PUBLISHER, ~~AFFIRM AND~~ ACKNOWLEDGE THE COST OF THE NEW
3 SELECTION VERSUS THE COST OF THE PREVIOUS SELECTION; OR

4 (II) IF SELECTING A CURRENT EDITION OF A COLLEGE
5 TEXTBOOK, ~~AFFIRM AND~~ ACKNOWLEDGE:

6 1. THE DIFFERENCES IN SUBSTANTIAL CONTENT
7 BETWEEN THE CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS
8 EDITION OF THE TEXTBOOK;

9 2. THAT THE USE OF THE CURRENT EDITION IS
10 JUSTIFIED DUE TO A MATERIAL CHANGE IN SUBSTANTIAL CONTENT BETWEEN
11 THE CURRENT EDITION AND THE PREVIOUS EDITION;

12 3. THE DIFFERENCE IN PRICE BETWEEN THE
13 CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS EDITION OF THE
14 TEXTBOOK; AND

15 4. THAT THE PREVIOUS EDITION OF THE TEXTBOOK
16 MAY BE AVAILABLE TO STUDENTS AT A LOWER PRICE VIA THE USED BOOK
17 MARKET.

18 (E) (1) A PUBLISHER ~~WHO~~ THAT SELLS COLLEGE TEXTBOOKS OR
19 SUPPLEMENTAL MATERIAL AND PROVIDES INFORMATION REGARDING A
20 COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL TO A FACULTY MEMBER,
21 OTHER ADOPTING ENTITY IN CHARGE OF SELECTING COURSE MATERIALS, OR
22 THE ADMINISTRATION OF AN INSTITUTION OF HIGHER EDUCATION SHALL
23 DISCLOSE WITH THIS INFORMATION, IN WRITING, BY PAPER OR ELECTRONIC
24 MEANS:

25 (I) ~~THE PRICE AT WHICH THE PUBLISHER WOULD MAKE~~
26 ~~THE OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO~~
27 ~~A BOOKSTORE AND THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE~~
28 ~~COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE DIRECTLY TO~~
29 ~~THE PUBLIC;~~

30 (II) THE TITLE, AUTHOR, PUBLISHER, EDITION, CURRENT
31 AND THREE PREVIOUS COPYRIGHT DATES, PUBLICATION DATE WHEN
32 AVAILABLE, AND ISBN OF THE COLLEGE TEXTBOOK AND SUPPLEMENTAL
33 MATERIAL, BOTH AS BUNDLED AND UNBUNDLED ITEMS;

34 (III) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN
35 THE CURRENT EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL

1 MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR
2 SUPPLEMENTAL MATERIAL EXPRESSED AS AN ITEMIZED LIST;

3 (IV) OTHER AVAILABLE FORMATS FOR THE COLLEGE
4 TEXTBOOK OR SUPPLEMENTAL MATERIAL SUCH AS PAPERBACK OR UNBOUND;
5 AND

6 (V) VARIANCES IN PRICE, IF ANY, BETWEEN BUNDLED AND
7 UNBUNDLED ITEMS.

8 (2) EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE
9 SHALL DEVELOP A PROCESS BY WHICH FACULTY MEMBERS ACKNOWLEDGE
10 HAVING BEEN INFORMED OF THE DISCLOSURES REQUIRED UNDER PARAGRAPH
11 (1) OF THIS SUBSECTION AND THE IMPACT THAT THE HIGH COST OF COLLEGE
12 TEXTBOOKS AND SUPPLEMENTAL MATERIAL HAS ON STUDENTS.

13 (F) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS
14 SUBSECTION, A PUBLISHER AND A CAMPUS BOOKSTORE SHALL PROVIDE AND
15 SELL COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL IN THE SAME
16 MANNER AS SELECTED AND ORDERED BY FACULTY MEMBERS.

17 (2) (I) IF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL
18 IS UNAVAILABLE AS ORDERED, THE PUBLISHER AND THE CAMPUS BOOKSTORE
19 SHALL WORK WITH THE FACULTY MEMBER TO FIND ALTERNATIVES.

20 (II) A PUBLISHER COLLABORATING WITH A CAMPUS
21 BOOKSTORE AND A FACULTY MEMBER UNDER SUBPARAGRAPH (I) OF THIS
22 PARAGRAPH SHALL PROVIDE ~~WHOLESALE PRICES AND SUGGESTED RETAIL~~
23 ~~PRICES, IF ANY,~~ PRICE INFORMATION FOR ALTERNATIVE COLLEGE TEXTBOOKS
24 AND SUPPLEMENTAL MATERIAL.

25 (3) A PUBLISHER THAT SELLS A COLLEGE TEXTBOOK AND ANY
26 SUPPLEMENTAL MATERIAL ACCOMPANYING THE COLLEGE TEXTBOOK IN A
27 BUNDLE SHALL ALSO MAKE AVAILABLE THE COLLEGE TEXTBOOK AND THE
28 SUPPLEMENTAL MATERIAL AS SEPARATE AND UNBUNDLED ITEMS, EACH
29 SEPARATELY PRICED.

30 (4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,
31 A CAMPUS BOOKSTORE MAY SELL COLLEGE TEXTBOOKS AND SUPPLEMENTAL
32 MATERIAL IN A DIFFERENT MANNER THAN AS SELECTED AND ORDERED BY
33 FACULTY MEMBERS FOR THE PURPOSE OF PROVIDING USED COLLEGE
34 TEXTBOOKS, PRIOR EDITIONS, OR OTHER LOWER-COST OPTIONS TO STUDENTS.

35 (II) IF A CAMPUS BOOKSTORE SELLS COLLEGE TEXTBOOKS
36 OR SUPPLEMENTAL MATERIAL AS AUTHORIZED UNDER SUBPARAGRAPH (I) OF

1 THIS PARAGRAPH, THE CAMPUS BOOKSTORE SHALL CLEARLY MARK THE
2 FACULTY MEMBER'S ACTUAL SELECTION IN CONTRAST WITH THE CAMPUS
3 BOOKSTORE'S ALTERNATIVE PRODUCT SUGGESTION.

4 (G) (1) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, ON THE
5 REQUEST OF A BOOKSTORE, AN INSTITUTION OF HIGHER EDUCATION SHALL
6 PROVIDE THE INFORMATION LISTED UNDER PARAGRAPH (2) OF THIS
7 SUBSECTION TO A BOOKSTORE AS SOON AS A FACULTY MEMBER IDENTIFIES A
8 COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND TRANSMITS THE
9 SELECTION TO A CAMPUS BOOKSTORE.

10 (2) THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF
11 THIS SUBSECTION SHALL INCLUDE THE:

12 (I) TITLE;

13 (II) AUTHOR;

14 (III) PUBLISHER;

15 (IV) EDITION;

16 (V) COPYRIGHT DATE AND PUBLICATION DATE WHEN
17 AVAILABLE;

18 (VI) ISBN; AND

19 (VII) ANTICIPATED ENROLLMENT FOR THE COURSE.

20 (3) (I) AN INSTITUTION OF HIGHER EDUCATION SHALL MAKE
21 THE INFORMATION LISTED UNDER PARAGRAPH (2) OF THIS SUBSECTION
22 AVAILABLE TO STUDENTS AND THE REST OF THE PUBLIC BY POSTING THE
23 INFORMATION ON ITS WEBSITE BY THE EARLIER OF:

24 1. SUBJECT TO PARAGRAPH (4) OF THIS
25 SUBSECTION, 1 WEEK FOLLOWING THE PROVISION OF INFORMATION UNDER
26 PARAGRAPH (1) OF THIS SUBSECTION; OR

27 2. WHEN A CAMPUS BOOKSTORE PLACES A FINAL
28 ORDER FOR A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL.

29 (II) IN ADDITION TO THE INFORMATION POSTED UNDER
30 SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INSTITUTION SHALL POST ON ITS
31 WEBSITE:

1 1. WHETHER SUPPLEMENTAL MATERIAL IS
2 REQUIRED OR ONLY SUGGESTED BY FACULTY; AND

3 2. WHETHER A PREVIOUS EDITION OF AN ASSIGNED
4 COLLEGE TEXTBOOK WILL SUFFICE.

5 (4) (I) AN INSTITUTION OF HIGHER EDUCATION SHALL
6 INFORM A BOOKSTORE THAT MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS
7 SUBSECTION AND STUDENTS OR MEMBERS OF THE PUBLIC WHO ACCESS THE
8 WEBSITE OF THE INSTITUTION UNDER PARAGRAPH (3) OF THIS SUBSECTION IF
9 ~~A~~ THE PARTICULAR COLLEGE TEXTBOOK, SUPPLEMENTAL MATERIAL, OR
10 BUNDLE HAS NOT BEEN FINALIZED BY THE FACULTY MEMBER.

11 (II) IN ADDITION TO THE DISCLOSURE MADE UNDER
12 SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INSTITUTION SHALL PROVIDE A
13 CAVEAT REGARDING THE POTENTIAL CONSEQUENCES OF PURCHASING ~~A~~ THE
14 PARTICULAR COLLEGE TEXTBOOK, SUPPLEMENTAL MATERIAL, OR BUNDLE
15 PRIOR TO THE SELECTION BEING FINALIZED.

16 (H) A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT
17 ENCOURAGE OR PROMOTE THE CREATION OR SALE OF COLLEGE TEXTBOOKS
18 THAT CONSIST OF PURELY AESTHETIC CHANGES TO A PRIOR EDITION OF A
19 COLLEGE TEXTBOOK SUCH AS A COMMEMORATIVE EDITION.

20 ~~(H)~~ (I) ON THE REQUEST OF A BOOKSTORE, IF A PUBLIC INSTITUTION
21 OF HIGHER EDUCATION ALLOWS A CAMPUS BOOKSTORE TO:

22 (1) ADVERTISE OR SUBMIT ADVERTISING FOR INCLUSION IN
23 ORIENTATION PACKETS, IN OTHER PRINT MATERIAL, OR ON THE WEBSITE OF
24 THE INSTITUTION, THEN THE INSTITUTION SHALL ALLOW OTHER BOOKSTORES
25 TO ADVERTISE OR SUBMIT ADVERTISING FOR THE SAME INCLUSION; AND

26 (2) ACCESS STUDENTS AS PART OF A PRESENTATION OR TOUR
27 FOR A STUDENT GROUP OR A GROUP OF POTENTIAL STUDENTS, THEN THE
28 INSTITUTION SHALL ALLOW OTHER BOOKSTORES TO HAVE THE SAME ACCESS
29 TO STUDENTS.

30 ~~(H)~~ (J) THIS SECTION MAY NOT BE CONSTRUED TO SUPERSEDE THE
31 INSTITUTIONAL AUTONOMY OR ACADEMIC FREEDOM OF FACULTY MEMBERS
32 INVOLVED IN THE SELECTION OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL
33 MATERIAL.

34 ~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

1 ~~(a) On or before November 1, 2010, the University System of Maryland, St.~~
2 ~~Mary's College of Maryland, Morgan State University, and the Maryland Association~~
3 ~~of Community Colleges shall submit reports to the Maryland Higher Education~~
4 ~~Commission, including a scientific and data-driven analysis of college textbook prices~~
5 ~~at the constituent or member institutions, as appropriate, efforts to lower the cost of~~
6 ~~textbooks for their students, and recommendations for statewide policy initiatives that~~
7 ~~will further ameliorate the high cost of undergraduate and graduate education as~~
8 ~~impacted by textbook prices; and~~

9 ~~(b) On or before December 1, 2010, the Maryland Higher Education~~
10 ~~Commission shall compile the reports required under paragraph (a) of this section and~~
11 ~~shall forward a copy of the compilation to the Governor and, in accordance with §~~
12 ~~2-1246 of the State Government Article, the General Assembly.~~

13 SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That, on or before December
14 1, 2010, each public institution of higher education in the State shall report to the
15 Governor and, in accordance with § 2-1246 of the State Government Article, the
16 General Assembly, regarding efforts to lower the cost of textbooks for their students,
17 the "best-practices" process developed under § ~~15-112(c)(4)~~ 15-112(c)(3) of the
18 Education Article, as enacted by Section 1 of this Act, and recommendations for
19 statewide policy initiatives that will further ameliorate the high cost of undergraduate
20 and graduate education as impacted by textbook prices.

21 SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That:

22 (a) On or before December 1, 2011, the Maryland Higher Education
23 Commission, in consultation with the University System of Maryland, St. Mary's
24 College of Maryland, Morgan State University, the Maryland Association of
25 Community Colleges, and the Maryland Independent College and University
26 Association, shall conduct a feasibility study regarding:

27 (1) the establishment of one or more textbook rental programs in
28 Maryland that would allow students to lease textbooks on a per book, per credit hour,
29 or per course basis, including an analysis of start-up costs and funding options such as
30 private sector donations and grants; ~~and~~

31 (2) the establishment of a statewide digital marketplace for college
32 textbooks and supplemental material including:

33 (i) an analysis of the infrastructure, technology, and support
34 services necessary to allow institutions, students, faculty, bookstores, publishers, and
35 other stakeholders to interact efficiently; and

36 (ii) a consideration of digital rights management capabilities
37 and transactional processes needed for both fee-based and no-cost content; and

1 (3) the accessibility of the digital marketplace and any and all
2 electronic textbooks and supplemental material to blind and print-disabled students
3 and faculty members.

4 (b) On or before December 31, 2011, the Maryland Higher Education
5 Commission shall submit the results of the feasibility studies conducted under
6 paragraph (a) of this section and make recommendations regarding textbook rental
7 programs and the establishment of a digital marketplace including cost estimates to
8 the Governor and, in accordance with § 2-1246 of the State Government Article, the
9 General Assembly, based on information gathered under subsection (a) of this section.

10 SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That:

11 (a) The University System of Maryland, under the direction of the Board of
12 Regents, shall conduct a study of changes that the University System of Maryland and
13 its constituent institutions can make to their business models regarding textbook
14 assignments and textbook purchasing in order to reduce the cost of textbooks to
15 students while preserving and enhancing the quality of educational materials
16 available to students. Principles underlying this review shall include:

17 (1) the protection of academic freedom;

18 (2) the promotion of competition among publishers, bookstores, and
19 other textbook vendors;

20 (3) the empowerment of faculty and students to access information
21 about options which will strengthen their market power; and

22 (4) the exploration of:

23 (i) alternative approaches used in other universities, states,
24 and countries;

25 (ii) new technologies; and

26 (iii) legal structures.

27 (b) The study conducted under subsection (a) of this section shall include, but
28 not be limited to, an exploration of:

29 (1) using the market power of faculty and students to drive down
30 prices;

31 (2) strategies to increase the use of used textbooks;

32 (3) the creation of textbook rental programs;

1 (4) increasing faculty awareness of textbook costs and options for
2 reducing textbook costs;

3 (5) minimizing the impact of publishers' "planned obsolescence"
4 marketing strategies; ~~and~~

5 (6) cost-effective substitution of content-licensing for textbook
6 purchasing; and

7 (7) ensuring that any and all electronic textbooks and supplemental
8 material shall be accessible to blind and print-disabled students and faculty members.

9 (c) On or before December 1, 2010, the University System of Maryland shall
10 submit to the Board of Regents and, in accordance with § 2-1246 of the State
11 Government Article, the General Assembly, the results of the study required under
12 subsection (a) of this section.

13 (d) Nothing contained in this section bars the University System of
14 Maryland from implementing changes consistent with its intent before December 1,
15 2010.

16 SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
17 effect July 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.