

HB1067/254068/2

BY: Appropriations Committee

AMENDMENTS TO HOUSE BILL 1067
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 3 down through “circumstances;” in line 19 and substitute “requiring certain public institutions of higher education to develop and implement certain campaigns, certain textbook adoption processes, certain best practices processes, and certain procedures relating to certain affirmations; requiring certain textbook publishers to disclose certain prices, variances in prices, content revisions, and textbook-related information; requiring certain publishers and certain bookstores to provide and sell certain textbooks and certain supplemental materials in a certain manner; requiring certain textbooks and certain supplemental materials to be available in certain packages; requiring certain institutions to make certain information available by posting it on certain websites on or before a certain time; providing for a certain exception to the provisions of this Act; providing for the construction of this Act;”; in line 19, strike “postsecondary” and substitute “higher”; and strike beginning with “requiring” in line 24 down through “date;” in line 26 and substitute “requiring certain institutions to report regarding certain policies developed in accordance with this Act; requiring the Commission, in consultation with certain stakeholders, to conduct certain feasibility studies on or before a certain date; requiring the University System of Maryland to conduct a certain study regarding certain business models and report the results of the study to the Board of Regents and the General Assembly;”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 6 through 24, inclusive.

AMENDMENT NO. 3

On page 2, after line 30, insert:

(Over)

“(2) (I) “BOOKSTORE” MEANS ANY ENTITY THAT OFFERS BOOKS OR OTHER COURSE MATERIALS FOR SALE.

(II) “BOOKSTORE” INCLUDES CAMPUS BOOKSTORES AND ONLINE VENDORS.”;

in line 31, strike “(2)” and substitute “(3)”; in line 34, after “SINGLE” insert “, CUSTOM, OR INTEGRATED”; and after line 34, insert:

“(4) “CAMPUS BOOKSTORE” MEANS A BOOKSTORE UNDER THE JURISDICTION OF A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(5) (I) “CUSTOM TEXTBOOK” MEANS A TEXTBOOK THAT IS COMPILED AT THE DIRECTION OF A FACULTY MEMBER AND MAY INCLUDE ORIGINAL INSTRUCTOR MATERIAL, PREVIOUSLY COPYRIGHTED MATERIAL, OR COPYRIGHTED THIRD-PARTY MATERIAL.

(II) “CUSTOM TEXTBOOK” DOES NOT MEAN A TEXTBOOK THAT DIFFERS ONLY ON AN AESTHETIC BASIS FROM OTHER TEXTBOOKS WITH THE SAME SUBSTANTIVE MATERIAL.

(6) “INTEGRATED TEXTBOOK” MEANS A COLLEGE TEXTBOOK THAT IS:

(I) COMBINED WITH MATERIALS DEVELOPED BY A THIRD PARTY AND THAT, BY THIRD-PARTY CONTRACTUAL AGREEMENT, MAY NOT BE OFFERED BY PUBLISHERS SEPARATELY FROM THE COLLEGE TEXTBOOK WITH WHICH THE MATERIALS ARE COMBINED; OR

(II) FUNCTIONALLY INTERDEPENDENT WITH SUPPLEMENTAL COURSE MATERIALS DESIGNED TO BE USED SOLELY AS A SINGLE UNIT AND WHOSE SEPARATION WOULD SUBSTANTIALLY DEGRADE THE ACADEMIC CONTENT SO THAT ITS COMPONENTS WOULD NOT BE USEFUL TO THE STUDENTS.

On page 3, in line 1, strike “(3)” and substitute “(7)”; and after line 3, insert:

“(8) “SUBSTANTIAL CONTENT” MEANS A PART OF A COLLEGE TEXTBOOK, SUCH AS NEW CHAPTERS, ADDITIONAL ERAS OF TIME, NEW THEMES, OR NEW SUBJECT MATTER.

(9) (I) “SUPPLEMENTAL MATERIAL” MEANS EDUCATIONAL MATERIAL DEVELOPED TO ACCOMPANY A TEXTBOOK AND INCLUDES PRINTED MATERIALS AND ELECTRONIC MATERIALS INCLUDING COMPUTER DISKS AND WEB ACCESS CODES.

(II) “SUPPLEMENTAL MATERIAL” DOES NOT MEAN MATERIAL THAT IS BOUND BY THIRD-PARTY CONTRACTUAL AGREEMENT TO BE SOLD AS PART OF AN INTEGRATED TEXTBOOK.

AMENDMENT NO. 4

On pages 3 and 4, strike in their entirety the lines beginning with line 4 on page 3 through line 12 on page 4, inclusive.

On page 4, after line 12, insert:

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

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

(1) A CAMPAIGN TO ASSIST FACULTY AND MAKE THEM AWARE OF TEXTBOOK-RELATED ISSUES, INCLUDING:

(I) WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF ANY, OF TEXTBOOKS;

(II) VARIANCES IN WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF ANY, OF BUNDLED AND UNBUNDLED MATERIALS;

(III) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN A CURRENT EDITION OF A TEXTBOOK AND A PREVIOUS EDITION OF A TEXTBOOK AS REPORTED TO THE INSTITUTION UNDER SUBSECTION (D) OF THIS SECTION; AND

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

(2) A TEXTBOOK ADOPTION PROCESS THAT INCLUDES THE PROVISION OF INFORMATION TO INSTITUTIONS AND CAMPUS BOOKSTORES REGARDING THE AVAILABILITY AND SUGGESTED RETAIL PRICES OF CURRENT AND USED VERSIONS OF PARTICULAR TEXTBOOKS;

(3) A BEST-PRACTICES PROCESS FOR FACULTY IN SELECTING TEXTBOOKS AND RELATED COURSE MATERIALS THAT:

(I) ENSURES EARLY ADOPTION OF TEXTBOOK AND OTHER COURSE MATERIALS;

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

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

(IV) ENSURES THAT FACULTY ARE AWARE OF VARIOUS OUTLETS FOR THE SUPPLY OF TEXTBOOKS AND OTHER COURSE MATERIALS; AND

(4) A PROCEDURE BY WHICH FACULTY AFFIRM THAT USE OF A CURRENT EDITION OF A TEXTBOOK IS JUSTIFIED DUE TO A MATERIAL CHANGE IN SUBSTANTIAL CONTENT.

(D) EACH COMMERCIAL TEXTBOOK PUBLISHER THAT SELLS TEXTBOOKS AND OTHER MATERIALS TO AN INSTITUTION OF HIGHER EDUCATION SHALL DISCLOSE TO THE INSTITUTION:

(1) THE WHOLESALE PRICE AND SUGGESTED RETAIL PRICE, IF ANY, AT WHICH THE PUBLISHER INTENDS TO MAKE THE TEXTBOOK AVAILABLE TO A BOOKSTORE;

(2) VARIANCES IN WHOLESALE PRICE AND SUGGESTED RETAIL PRICES, IF ANY, BETWEEN BUNDLED AND UNBUNDLED MATERIALS;

(3) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN THE CURRENT EDITION OF A TEXTBOOK AND A PREVIOUS EDITION OF A TEXTBOOK EXPRESSED AS AN ITEMIZED LIST; AND

(4) THE TITLE, AUTHOR, PUBLISHER, EDITION, COPYRIGHT DATE, PUBLICATION DATE WHEN AVAILABLE, AND ISBN OF TEXTBOOKS AND OTHER SUPPLEMENTAL MATERIALS, BOTH AS BUNDLED AND UNBUNDLED ITEMS.

(E) (1) A PUBLISHER AND A CAMPUS BOOKSTORE SHALL PROVIDE AND SELL TEXTBOOKS AND SUPPLEMENTAL MATERIALS IN THE SAME MANNER AS SELECTED AND ORDERED BY FACULTY.

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

(II) A PUBLISHER COLLABORATING WITH A CAMPUS BOOKSTORE AND A FACULTY MEMBER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROVIDE WHOLESALE PRICES AND SUGGESTED RETAIL PRICES, IF ANY, FOR ALTERNATIVES.

(3) A PUBLISHER THAT SELLS A TEXTBOOK AND ANY SUPPLEMENTAL MATERIALS ACCOMPANYING THE TEXTBOOK IN A BUNDLE SHALL MAKE THE TEXTBOOK AND THE SUPPLEMENTAL MATERIALS AVAILABLE AS SEPARATE AND UNBUNDLED ITEMS, EACH SEPARATELY PRICED.”.

AMENDMENT NO. 5

On page 4, strike in their entirety lines 13 through 21, inclusive; after line 21, insert:

“(F) (1) NOT MORE THAN 3 WEEKS AFTER A FACULTY MEMBER OF AN INSTITUTION OF HIGHER EDUCATION IDENTIFIES A TEXTBOOK AND TRANSMITS THE SELECTION TO A CAMPUS BOOKSTORE OR TO ANY OTHER BOOKSTORE UNDER THE JURISDICTION OF THE INSTITUTION, THE INSTITUTION SHALL MAKE THE FOLLOWING INFORMATION AVAILABLE TO STUDENTS AND THE REST OF THE PUBLIC BY POSTING THE INFORMATION ON ITS WEBSITE:”;

in line 26, after “**THE**” insert “**COPYRIGHT DATE AND**”; in the same line, after “**DATE**” insert “**WHEN AVAILABLE**”; in the same line, strike “**AND**”; and in line 27, after “**ISBN**” insert “**; AND**”

(VII) THE ANTICIPATED ENROLLMENT FOR THE COURSE.

(2) IN ADDITION TO THE INFORMATION POSTED UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN INSTITUTION SHALL POST ON ITS WEBSITE:

(I) WHETHER SUPPLEMENTAL MATERIALS ARE REQUIRED OR ONLY SUGGESTED BY FACULTY; AND

(II) WHETHER AN EARLIER EDITION OF AN ASSIGNED TEXTBOOK WILL SUFFICE”.

AMENDMENT NO. 6

On pages 4 and 5, strike in their entirety the lines beginning with line 28 on page 4 through line 8 on page 5, inclusive.

On page 5, after line 8, insert:

(Over)

“(G) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO SUPERSEDE THE INSTITUTIONAL AUTONOMY OR ACADEMIC FREEDOM OF FACULTY INVOLVED IN THE SELECTION OF TEXTBOOKS AND SUPPLEMENTAL MATERIALS.”;

in lines 10 and 16, in each instance, strike “2008” and substitute “2009”; strike beginning with “each” in line 10 down through “State” in line 11 and substitute “the University System of Maryland, St. Mary’s College of Maryland, Morgan State University, and the Maryland Association of Community Colleges”; in line 12, strike “that institution” and substitute “the constituent or member institutions, as appropriate”; in line 13, strike “its” and substitute “their”; in line 21, after “each” insert “public”; in the same line, strike “postsecondary” and substitute “higher”; strike beginning with “develop” in line 21 down through “students” in line 22 and substitute “report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly, regarding the “best-practices” policy developed under § 15-111(c)(4) of the Education Article, as enacted by Section 1 of this Act.”

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) On or before December 1, 2010, the Maryland Higher Education Commission, in consultation with the University System of Maryland, St. Mary’s College of Maryland, Morgan State University, the Maryland Association of Community Colleges, and the Maryland Independent College and University Association, shall conduct a feasibility study regarding:

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

(2) the establishment of a statewide digital marketplace for textbooks and supplemental course materials including:

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

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

(b) On or before December 31, 2010, the Maryland Higher Education Commission shall submit the results of the feasibility studies conducted under paragraph (a) of this section and make recommendations regarding textbook rental programs and the establishment of a digital marketplace including cost estimates to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly, based on information gathered under subsection (a) of this section.

SECTION 5. AND BE IT FURTHER ENACTED, That:

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

(1) the protection of academic freedom;

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

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

(4) the exploration of:

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

(ii) new technologies; and

(iii) legal structures.

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

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

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

(3) the creation of textbook rental programs;

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

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

(6) cost-effective substitution of content-licensing for textbook purchasing.

(c) On or before December 1, 2009, the University System of Maryland shall submit to the Board of Regents and, in accordance with § 2-1246 of the State Government Article, to the General Assembly, the results of the study required under subsection (a) of this section.

(d) Nothing contained in this section bars the University System of Maryland from implementing changes consistent with its intent before December 1, 2009”;

and in line 23, strike “4” and substitute “6”.