

CHAPTER 521

(House Bill 85)

AN ACT concerning

College Textbook Competition and Affordability Act of 2009

FOR the purpose of requiring certain institutions of higher education to develop and implement informational campaigns, ~~certain textbook adoption processes,~~ certain procedures relating to certain disclosures and certain ~~affirmations~~ acknowledgments, and certain best practices processes; requiring certain institutions to develop a certain process for the ~~affirmation and~~ acknowledgment by certain faculty of certain information; requiring certain publishers to disclose certain information in certain formats relating to certain prices, certain textbook-related information, certain content revisions, and certain other formats, ~~and certain variances in price~~; requiring, subject to a certain exception, certain publishers and certain bookstores to provide and sell certain textbooks and certain supplemental material in a certain manner and to work with certain faculty members to find certain alternatives under certain circumstances; requiring certain textbooks and certain supplemental material to be available in certain packages; requiring certain institutions to provide certain information to certain bookstores under certain circumstances, subject to certain notifications and certain conditions; ~~requiring certain institutions to provide certain information to certain bookstores under certain circumstances, subject to certain notifications~~; requiring certain institutions to make certain information available by posting it on certain websites on or before a certain time subject to a certain extension under certain circumstances; prohibiting certain institutions from encouraging or promoting the creation or sale of certain types of textbooks; ~~requiring certain institutions to allow certain bookstores to advertise and have certain access to certain students under certain circumstances~~; providing for a certain exception to the provisions of this Act; providing for the construction of this Act; ~~requiring certain institutions to make certain reports to the Maryland Higher Education Commission regarding certain analyses of certain textbook prices and certain other information on or before a certain date~~; requiring the Commission to compile certain reports and forward the compilation to the Governor and the General Assembly on or before a certain date; requiring certain institutions to report to the Maryland Higher Education Commission regarding certain efforts to lower the cost of certain textbooks and 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 and report to the Governor and the General Assembly 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; defining certain terms; and generally relating to the sale of college textbooks.

BY adding to

Article – Education
Section 15–112
Annotated Code of Maryland
(2008 Replacement Volume)

Preamble

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

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

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

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

Article – Education

15–112.

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

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

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

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

(II) **“BUNDLE” DOES NOT INCLUDE SINGLE, CUSTOM, OR INTEGRATED TEXTBOOKS.**

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

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

(II) **“CUSTOM TEXTBOOK” INCLUDES ORIGINAL INSTRUCTOR MATERIAL, PREVIOUSLY COPYRIGHTED MATERIAL, OR COPYRIGHTED THIRD-PARTY MATERIAL, ~~OR ELEMENTS UNIQUE TO A SPECIFIC INSTITUTION, SUCH AS COMMEMORATIVE EDITIONS.~~**

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

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

(I) **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) **OTHER MATERIALS THAT ARE SO INTERRELATED WITH THE CONTENT OF THE COLLEGE TEXTBOOK THAT THE SEPARATION OF THE COLLEGE TEXTBOOK FROM THE OTHER MATERIALS WOULD RENDER THE COLLEGE TEXTBOOK UNUSABLE FOR ITS INTENDED PURPOSE.**

(7) **“ISBN” MEANS THE UNIQUE INTERNATIONAL STANDARD BOOK NUMBER ASSIGNED TO ~~A COLLEGE TEXTBOOK~~ COURSE MATERIAL THAT IS USED BY PUBLISHERS TO IDENTIFY EACH TEXTBOOK EDITION AND ~~PRINTING OF A COLLEGE TEXTBOOK~~ OTHER COURSE MATERIAL, INCLUDING BUNDLES.**

(8) **“PRICE” MEANS THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO A BOOKSTORE AND, IF AVAILABLE, THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO THE PUBLIC.**

~~(8)~~ (9) “SUBSTANTIAL CONTENT” MEANS A PART OF A COLLEGE TEXTBOOK, SUCH AS NEW CHAPTERS, NEW MATERIAL COVERING ADDITIONAL ERAS OF TIME, NEW THEMES, OR NEW SUBJECT MATTER.

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

(II) “SUPPLEMENTAL MATERIAL” INCLUDES PRINTED MATERIALS AND ELECTRONIC MATERIALS SUCH AS COMPUTER DISKS AND WEB ACCESS CODES.

(11) “TEXTBOOK” INCLUDES CUSTOM TEXTBOOKS TO THE MAXIMUM EXTENT PRACTICABLE.

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

~~(I) WHOLESAL PRICE AND SUGGESTED RETAIL PRICES, IF ANY,~~ (I) THE PRICE OF COLLEGE TEXTBOOKS AND OF SUPPLEMENTAL MATERIAL;

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

(II) THE EXISTENCE OF VARIANCES IN PRICE OF BUNDLED AND UNBUNDLED COURSE MATERIALS;

~~(III) (H) (III)~~ SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN THE CURRENT EDITION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AS REPORTED TO THE INSTITUTION UNDER SUBSECTION (E) OF THIS SECTION; ~~AND~~

~~(III) (IV)~~ WHICH TEXTBOOKS ARE INTEGRATED TEXTBOOKS AND ARE THEREFORE NOT SUBJECT TO SUBSECTION (F)(3) OF THIS SECTION, AS REPORTED BY THE PUBLISHER UNDER SUBSECTION (E) OF THIS SECTION; AND

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

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

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

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

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

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

(III) FOR UNDERGRADUATE COLLEGE 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 COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

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

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

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

~~(H)~~ 2. IF SELECTING A CURRENT EDITION OF A COLLEGE TEXTBOOK, ~~AFFIRM AND ACKNOWLEDGE~~:

~~1.~~ A. THE DIFFERENCES IN SUBSTANTIAL CONTENT BETWEEN THE CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS EDITION OF THE TEXTBOOK AS REPORTED BY THE PUBLISHER UNDER SUBSECTION (E) OF THIS SECTION;

~~2.~~ B. THAT THE USE OF THE CURRENT EDITION IS ~~JUSTIFIED~~ APPROPRIATE DUE TO A MATERIAL CHANGE IN SUBSTANTIAL CONTENT BETWEEN THE CURRENT EDITION AND THE PREVIOUS EDITION;

~~3.~~ C. THE DIFFERENCE IN PRICE BETWEEN THE CURRENT EDITION OF THE TEXTBOOK AND THE PREVIOUS EDITION OF THE TEXTBOOK; AND ~~AND~~

~~4.~~ D. THAT THE PREVIOUS EDITION OF THE TEXTBOOK MAY BE AVAILABLE TO STUDENTS AT A LOWER PRICE VIA THE USED BOOK MARKET; AND

~~5.~~ (II) THAT AN INTEGRATED TEXTBOOK IS NOT SUBJECT TO SUBSECTION (F)(3) OF THIS SECTION; AND

(III) THAT SUPPLEMENTAL MATERIAL INCLUDED IN A BUNDLE IS INTENDED FOR USE IN THE COURSE.

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

(I) ~~THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE TO A BOOKSTORE AND THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE~~

~~COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AVAILABLE DIRECTLY TO THE PUBLIC;~~

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

(III) SUBSTANTIAL CONTENT REVISIONS MADE BETWEEN THE CURRENT EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND THE PREVIOUS EDITION OF THE COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL ~~EXPRESSED AS AN ITEMIZED LIST;~~

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

(V) A LIST OF TEXTBOOKS THAT ARE CLASSIFIED AS INTEGRATED TEXTBOOKS.

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

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

~~(3) THE PROVISIONS OF THIS SUBSECTION SHALL BE MET, TO THE EXTENT PRACTICABLE, ON OR BEFORE OCTOBER 1, 2009 BUT NO LATER THAN JULY 1, 2010.~~

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

(2) (I) IF A COLLEGE 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,~~ PRICE INFORMATION FOR ALTERNATIVE COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

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

(4) WITH THE PERMISSION OF A FACULTY MEMBER, A CAMPUS BOOKSTORE MAY SELL COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL IN A DIFFERENT MANNER THAN AS SELECTED AND ORDERED BY THE FACULTY MEMBER FOR THE PURPOSE OF PROVIDING USED COLLEGE TEXTBOOKS, PRIOR EDITIONS, OR OTHER LOWER-COST OPTIONS TO STUDENTS.

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

(G) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON THE REQUEST OF A BOOKSTORE, AN INSTITUTION OF HIGHER EDUCATION SHALL PROVIDE THE INFORMATION LISTED UNDER PARAGRAPH (3) OF THIS SUBSECTION TO A BOOKSTORE BY THE EARLIER OF:

1. WITHIN 1 WEEK OF A FACULTY MEMBER'S SELECTION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL AND TRANSMISSION TO A CAMPUS BOOKSTORE; OR

2. WHEN THE SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS FINALIZED.

(II) A BOOKSTORE THAT OBTAINS INFORMATION UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH MAY NOT MAKE THE INFORMATION AVAILABLE TO STUDENTS OR MEMBERS OF THE PUBLIC UNTIL THE INFORMATION IS MADE AVAILABLE TO THE BOOKSTORE IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

~~**(2) THE INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE:**~~

~~(I) TITLE;~~

~~(II) AUTHOR;~~

~~(III) PUBLISHER;~~

~~(IV) EDITION;~~

~~(V) COPYRIGHT DATE AND PUBLICATION DATE WHEN AVAILABLE;~~

~~(VI) ISBN; AND~~

~~(VII) ANTICIPATED ENROLLMENT FOR THE COURSE.~~

~~(3) (6)~~ ~~(1) (2)~~ (I) AN INSTITUTION OF HIGHER EDUCATION SHALL MAKE THE INFORMATION LISTED UNDER PARAGRAPH ~~(2) (3)~~ OF THIS SUBSECTION AVAILABLE TO BOOKSTORES, STUDENTS, AND THE REST OF THE PUBLIC BY POSTING THE INFORMATION ON ITS WEBSITE BY THE EARLIER OF:

1. ~~SUBJECT TO PARAGRAPH (4) PARAGRAPHS (3) (4) AND (4) (5) OF THIS SUBSECTION, 1 WEEK 30 DAYS 3 WEEKS FOLLOWING THE PROVISION OF INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL; OR~~

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

2. WHEN THE SELECTION BY A FACULTY MEMBER OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL IS FINALIZED.

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

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

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

~~(2) (3)~~ THE INFORMATION MADE AVAILABLE UNDER PARAGRAPH ~~(1)~~ PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL INCLUDE THE:

(I) TITLE;

(II) AUTHOR;

(III) PUBLISHER;

(IV) EDITION;

(V) COPYRIGHT DATE AND PUBLICATION DATE, WHEN AVAILABLE;

(VI) ISBN; AND

(VII) ANTICIPATED ENROLLMENT FOR THE COURSE.

~~(4) (3) (4)~~ (I) AN INSTITUTION OF HIGHER EDUCATION SHALL INFORM A BOOKSTORE, ~~THAT MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION AND~~ STUDENTS, OR MEMBERS OF THE PUBLIC WHO ACCESS THE WEBSITE OF THE INSTITUTION UNDER PARAGRAPH ~~(3) (1)~~ (2) OF THIS SUBSECTION IF ~~A~~ THE SELECTION OF THE PARTICULAR COLLEGE TEXTBOOK, SUPPLEMENTAL MATERIAL, OR BUNDLE HAS NOT BEEN FINALIZED BY THE FACULTY MEMBER.

(II) IN ADDITION TO THE DISCLOSURE MADE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INSTITUTION, CAMPUS BOOKSTORE, OR OTHER BOOKSTORE THAT OFFERS A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL FOR SALE PRIOR TO THE SELECTION BEING FINALIZED SHALL PROVIDE A:

1. A CAVEAT REGARDING THE POTENTIAL CONSEQUENCES OF PURCHASING A THE PARTICULAR COLLEGE TEXTBOOK, SUPPLEMENTAL MATERIAL, OR BUNDLE PRIOR TO THE SELECTION BEING FINALIZED; AND

2. THE RETURN POLICY OF THE CAMPUS BOOKSTORE OR OTHER BOOKSTORE, AS APPROPRIATE.

~~(4) (5)~~ (I) NOTWITHSTANDING PARAGRAPH ~~(1)~~ PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, UPON REQUEST TO AN

INSTITUTION, AN EXTENSION OF TIME MAY BE GRANTED TO A FACULTY MEMBER OR A CAMPUS BOOKSTORE FROM THE REQUIREMENT TO POST THE SELECTION OF A COLLEGE TEXTBOOK OR SUPPLEMENTAL MATERIAL PRIOR TO THE SELECTION BEING FINALIZED.

(II) THE EXTENSION GRANTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE APPROVED BY THE FACULTY DEPARTMENT CHAIR AND THE DEAN OR DIVISION HEAD OF THE INSTITUTION.

(III) THE EXTENSION SHALL INCLUDE A WRITTEN STATEMENT OF EXPLANATION FOR THE EXTENSION.

(IV) AN INSTITUTION SHALL POST THE WRITTEN STATEMENT ON ITS WEBSITE INSTEAD OF THE SELECTION, AS APPROPRIATE.

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

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

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

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

(I) THIS SECTION MAY NOT BE CONSTRUED TO SUPERSEDE THE INSTITUTIONAL AUTONOMY OR ACADEMIC FREEDOM OF FACULTY MEMBERS INVOLVED IN THE SELECTION OF COLLEGE TEXTBOOKS AND SUPPLEMENTAL MATERIAL.

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

~~(a) On or before November 1, 2010, the University System of Maryland, St. Mary's College of Maryland, Morgan State University, and the Maryland Association of Community Colleges shall submit reports to the Maryland Higher Education Commission, including a scientific and data-driven analysis of college textbook prices~~

~~at the constituent or member institutions, as appropriate, efforts to lower the cost of textbooks for their students, and recommendations for statewide policy initiatives that will further ameliorate the high cost of undergraduate and graduate education as impacted by textbook prices; and~~

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

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

(a) On or before December 1, ~~2010~~ 2011, each public institution of higher education in the State shall report to the ~~Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly,~~ Maryland Higher Education Commission regarding efforts to lower the cost of textbooks for their students and the “best-practices” process developed under § 15-112(c)(4) 15-112(c)(3) of the Education Article, as enacted by Section 1 of this Act.

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

~~(a)~~ (b) On or before December 1, 2011, 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 college textbooks and supplemental material 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; and

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

~~(b)~~ (c) On or before December 31, 2011, the ~~Maryland Higher Education~~ Commission shall:

(1) compile the reports required under paragraph (a) of this section;
and

(2) submit to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly, the compilation, the results of the feasibility studies conducted under paragraph (a) (b) 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, the General Assembly, and statewide policy initiatives that will further ameliorate the high cost of undergraduate and graduate education as impacted by textbook prices based on information gathered under subsection (a) of this section.

SECTION ~~5~~ 3. 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; and
- (7) ensuring that any and all electronic textbooks and supplemental material shall be accessible to blind and print-disabled students and faculty members.

(c) On or before December 1, 2010, the University System of Maryland shall submit to the Board of Regents and, in accordance with § 2-1246 of the State Government Article, 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, 2010.

SECTION ~~6~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 19, 2009.