

# SENATE BILL 1098

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By: ~~Senator Conway~~ Senators Conway, Benson, Montgomery, Simonaire, and Young

Introduced and read first time: March 3, 2014

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, March 7, 2014

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2014

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Institutions of Higher Education – Sale of Textbooks – Audits**

3 FOR the purpose of requiring the Office of Legislative Audits to ~~conduct an annual~~  
4 ~~audit~~ include in certain audits of certain institutions of higher education ~~to~~  
5 ~~ensure~~ an evaluation of the institution's compliance with certain provisions of  
6 law relating to the sale of textbooks; requiring a certain audit to include certain  
7 information; ~~requiring the Legislative Auditor to report certain findings of an~~  
8 ~~audit to the Maryland Higher Education Commission and the General Assembly~~  
9 ~~on or before a certain date each year; specifying a certain time period for a~~  
10 ~~certain audit; requiring the Legislative Auditor to report certain findings of an~~  
11 ~~initial audit to the Maryland Higher Education Commission and the General~~  
12 ~~Assembly on or before a certain date; and generally relating to audits of the sale~~  
13 of textbooks by public institutions of higher education.

14 BY repealing and reenacting, ~~with~~ without amendments,  
15 Article – Education  
16 Section 15–112  
17 Annotated Code of Maryland  
18 (2008 Replacement Volume and 2013 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article – State Government  
21 Section 2–1220(a)(2)(i)

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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 (i) Materials developed by a third party and that, by  
2 third-party contractual agreement, may not be offered by publishers separately from  
3 the college textbook with which the materials are combined; or

4 (ii) Other materials that are so interrelated with the content of  
5 the college textbook that the separation of the college textbook from the other  
6 materials would render the college textbook unusable for its intended purpose.

7 (7) “ISBN” means the unique International Standard Book Number  
8 assigned to college course material that is used by publishers to identify each textbook  
9 edition and other course material, including bundles.

10 (8) “Price” means the price at which the publisher would make the  
11 college textbook or supplemental material available to a bookstore and, if available,  
12 the price at which the publisher would make the college textbook or supplemental  
13 material available to the public.

14 (9) “Substantial content” means a part of a college textbook, such as  
15 new chapters, new material covering additional eras of time, new themes, or new  
16 subject matter.

17 (10) (i) “Supplemental material” means educational material  
18 developed to accompany a college textbook that is not being used as a component of an  
19 integrated textbook.

20 (ii) “Supplemental material” includes printed materials and  
21 electronic materials such as computer disks and web access codes.

22 (11) “Textbook” includes custom textbooks to the maximum extent  
23 practicable.

24 (b) This section does not apply to the overseas programs of the University of  
25 Maryland University College.

26 (c) Each public institution of higher education in the State shall develop and  
27 implement:

28 (1) An informational campaign to assist faculty and make them aware  
29 of textbook-related issues, including:

30 (i) The price of college textbooks and of supplemental material;

31 (ii) The existence of variances in price of bundled and  
32 unbundled course materials;

1 (iii) Substantial content revisions made between the current  
2 edition of a college textbook or supplemental material and the previous edition of the  
3 college textbook or supplemental material as reported to the institution under  
4 subsection (e) of this section;

5 (iv) Which textbooks are integrated textbooks and are therefore  
6 not subject to subsection (f)(3) of this section, as reported by the publisher under  
7 subsection (e) of this section; and

8 (v) The fiscal impact to students of the high cost of college  
9 textbooks;

10 (2) A procedure by which bookstores and students are made aware of  
11 the information required to be disclosed under subsection (g) of this section; and

12 (3) A best-practices process for faculty in selecting college textbooks  
13 and supplemental material that:

14 (i) Ensures early adoption of college textbooks and  
15 supplemental material;

16 (ii) Encourages the maximum usage of used college textbooks  
17 and of previous editions of college textbooks, when possible;

18 (iii) For undergraduate college textbooks, ensures that the  
19 majority of the assigned material will be used in the course unless it would be in the  
20 student's financial interest to purchase separate materials; and

21 (iv) Ensures that faculty are aware of various outlets for the  
22 supply of college textbooks and supplemental material.

23 (d) (1) Each public institution of higher education shall develop a process  
24 by which faculty members acknowledge the information under paragraph (2) of this  
25 subsection.

26 (2) Before selecting a college textbook or supplemental material and  
27 before transmitting the selection to a campus bookstore, providing the selection to any  
28 other bookstore, or posting the selection on the website of the public institution of  
29 higher education, a faculty member shall acknowledge:

30 (i) 1. If selecting a different college textbook from a  
31 different publisher, the cost of the new selection versus the cost of the previous  
32 selection; or

33 2. If selecting a current edition of a college textbook:

1                   A.     The differences in substantial content between the  
2 current edition of the textbook and the previous edition of the textbook as reported by  
3 the publisher under subsection (e) of this section;

4                   B.     That the use of the current edition is appropriate due  
5 to a material change in substantial content between the current edition and the  
6 previous edition;

7                   C.     The difference in price between the current edition of  
8 the textbook and the previous edition of the textbook; and

9                   D.     That the previous edition of the textbook may be  
10 available to students at a lower price via the used book market;

11                   (ii)    That an integrated textbook is not subject to subsection (f)(3)  
12 of this section; and

13                   (iii)  That supplemental material included in a bundle is intended  
14 for use in the course.

15           (e)    (1)    A publisher that sells college textbooks or supplemental material  
16 and provides information regarding a college textbook or supplemental material to a  
17 faculty member, other adopting entity in charge of selecting course materials, or the  
18 administration of an institution of higher education shall disclose with this  
19 information, in writing, by paper or electronic means:

20                   (i)     The price of the college textbook or supplemental material;

21                   (ii)    The title, author, publisher, edition, current and three  
22 previous copyright dates, publication date when available, and ISBN of the college  
23 textbook and supplemental material, both as bundled and unbundled items;

24                   (iii)  Substantial content revisions made between the current  
25 edition of the college textbook or supplemental material and the previous edition of the  
26 college textbook or supplemental material;

27                   (iv)   Other available formats for the college textbook or  
28 supplemental material such as paperback or unbound; and

29                   (v)    A list of textbooks that are classified as integrated  
30 textbooks.

31           (2)    Each institution of higher education in the State shall develop a  
32 process by which faculty members acknowledge having been informed of the  
33 disclosures required under paragraph (1) of this subsection and the impact that the  
34 high cost of college textbooks and supplemental material has on students.

1 (f) (1) Except as provided in paragraph (4) of this subsection, a publisher  
2 and a campus bookstore shall provide and sell college textbooks and supplemental  
3 material in the same manner as selected and ordered by faculty members.

4 (2) (i) If a college textbook or supplemental material is unavailable  
5 as ordered, the publisher and the campus bookstore shall work with the faculty  
6 member to find alternatives.

7 (ii) A publisher collaborating with a campus bookstore and a  
8 faculty member under subparagraph (i) of this paragraph shall provide price  
9 information for alternative college textbooks and supplemental material.

10 (3) A publisher that sells a college textbook and any supplemental  
11 material accompanying the college textbook in a bundle shall also make available the  
12 college textbook and the supplemental material as separate and unbundled items,  
13 each separately priced.

14 (4) With the permission of a faculty member, a campus bookstore may  
15 sell college textbooks and supplemental material in a different manner than as  
16 selected and ordered by the faculty member for the purpose of providing used college  
17 textbooks, prior editions, or other lower-cost options to students.

18 (g) (1) (i) Subject to subparagraph (ii) of this paragraph, on the  
19 request of a bookstore, an institution of higher education shall provide the information  
20 listed under paragraph (3) of this subsection to a bookstore by the earlier of:

21 1. Within 1 week of a faculty member's selection of a  
22 college textbook or supplemental material and transmission to a campus bookstore; or

23 2. When the selection by a faculty member of a college  
24 textbook or supplemental material is finalized.

25 (ii) A bookstore that obtains information under subparagraph  
26 (i)1 of this paragraph may not make the information available to students or members  
27 of the public until the information is made available to the bookstore in accordance  
28 with paragraph (2) of this subsection.

29 (2) (i) An institution of higher education shall make the  
30 information listed under paragraph (3) of this subsection available to bookstores,  
31 students, and the rest of the public by posting the information on its website by the  
32 earlier of:

33 1. Subject to paragraphs (4) and (5) of this subsection, 3  
34 weeks following the selection by a faculty member of a college textbook or  
35 supplemental material; or

1                                   2.     When the selection by a faculty member of a college  
2 textbook or supplemental material is finalized.

3                                   (ii)    In addition to the information posted under subparagraph (i)  
4 of this paragraph, an institution shall post on its website:

5                                   1.     Whether supplemental material is required or only  
6 suggested by faculty; and

7                                   2.     Whether a previous edition of an assigned college  
8 textbook will suffice.

9                                   (3)    The information made available under paragraphs (1) and (2) of  
10 this subsection shall include the:

11                                   (i)    Title;

12                                   (ii)   Author;

13                                   (iii)  Publisher;

14                                   (iv)   Edition;

15                                   (v)    Copyright date and publication date, when available;

16                                   (vi)   ISBN; and

17                                   (vii)  Anticipated enrollment for the course.

18                                   (4)    (i)    An institution of higher education shall inform a bookstore,  
19 students, or members of the public who access the website of the institution under  
20 paragraph (2) of this subsection if the selection of the particular college textbook,  
21 supplemental material, or bundle has not been finalized by the faculty member.

22                                   (ii)    In addition to the disclosure made under subparagraph (i) of  
23 this paragraph, an institution, campus bookstore, or other bookstore that offers a  
24 college textbook or supplemental material for sale prior to the selection being finalized  
25 shall provide:

26                                   1.     A caveat regarding the potential consequences of  
27 purchasing the particular college textbook, supplemental material, or bundle prior to  
28 the selection being finalized; and

29                                   2.     The return policy of the campus bookstore or other  
30 bookstore, as appropriate.





1           **(5) IN THE CASE OF AN AUDIT OF A PUBLIC INSTITUTION OF**  
2 **HIGHER EDUCATION, EVALUATING THE INSTITUTION'S COMPLIANCE WITH §**  
3 **15-112 OF THE EDUCATION ARTICLE, INCLUDING:**

4           ~~**(J) (1) IN ADDITION TO THE AUDITS REQUIRED UNDER § 2-1220 OF**~~  
5 ~~**THE STATE GOVERNMENT ARTICLE, THE OFFICE OF LEGISLATIVE AUDITS**~~  
6 ~~**SHALL CONDUCT AN ANNUAL AUDIT OF EACH PUBLIC INSTITUTION OF HIGHER**~~  
7 ~~**EDUCATION TO ENSURE COMPLIANCE WITH THIS SECTION.**~~

8           ~~**(2) THE AUDIT SHALL REPORT ON THE COMPLIANCE OF A PUBLIC**~~  
9 ~~**INSTITUTION OF HIGHER EDUCATION WITH THIS SECTION, INCLUDING:**~~

10           ~~**(I) THE THE PROCESS DEVELOPED BY THE PUBLIC**~~  
11 ~~**INSTITUTION OF HIGHER EDUCATION AS REQUIRED UNDER SUBSECTION (D)(2)**~~  
12 ~~**OF THIS SECTION; AND § 15-112(D)(2) OF THE EDUCATION ARTICLE;**~~

13           ~~**(II) THE THE EXTENT TO WHICH THE PUBLIC INSTITUTION**~~  
14 ~~**OF HIGHER EDUCATION HAS PROVIDED THE INFORMATION REQUIRED UNDER**~~  
15 ~~**SUBSECTION (G) OF THIS SECTION WITHIN THE TIME PERIOD REQUIRED. §**~~  
16 ~~**15-112(G) OF THE EDUCATION ARTICLE WITHIN THE TIME PERIOD REQUIRED;**~~

17           ~~**(3) THE AUDIT SHALL INCLUDE INFORMATION REGARDING:**~~

18           ~~**(H) (III) THE THE EXTENT TO WHICH FACULTY MEMBERS,**~~  
19 ~~**OTHER ENTITIES IN CHARGE OF SELECTING COURSE MATERIALS, OR THE**~~  
20 ~~**ADMINISTRATION OF A PUBLIC INSTITUTION OF HIGHER EDUCATION HAVE**~~  
21 ~~**RECEIVED THE INFORMATION REQUIRED TO BE DISCLOSED BY A PUBLISHER**~~  
22 ~~**UNDER SUBSECTION (E) OF THIS SECTION § 15-112(E) OF THE EDUCATION**~~  
23 ~~**ARTICLE; AND**~~

24           ~~**(H) (IV) THE THE AVAILABILITY OF UNBUNDLED**~~  
25 ~~**TEXTBOOKS AND SUPPLEMENTAL ITEMS FROM PUBLISHERS AS REQUIRED**~~  
26 ~~**UNDER SUBSECTION (F)(3) OF THIS SECTION § 15-112(F)(3) OF THE**~~  
27 ~~**EDUCATION ARTICLE.**~~

28           ~~**(4) (I) ON OR BEFORE JULY 1, 2015, AND EACH YEAR**~~  
29 ~~**THEREAFTER, THE LEGISLATIVE AUDITOR SHALL SUBMIT A REPORT ON THE**~~  
30 ~~**FINDINGS OF THE AUDIT REQUIRED UNDER THIS SUBSECTION TO THE**~~  
31 ~~**COMMISSION AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE**~~  
32 ~~**GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.**~~

33           ~~**(H) EACH AUDIT SHALL BE FOR THE PERIOD BEGINNING**~~  
34 ~~**MARCH 1 OF THE PREVIOUS YEAR AND ENDING ON THE LAST DAY OF FEBRUARY**~~  
35 ~~**OF THE YEAR THE REPORT IS DUE.**~~

1                    ~~(H) ON OR BEFORE SEPTEMBER 1, 2014, THE LEGISLATIVE~~  
 2 ~~AUDITOR SHALL SUBMIT A REPORT ON THE FINDINGS OF AN INITIAL AUDIT OF~~  
 3 ~~THE 2011, 2012, AND 2013 YEARS REQUIRED UNDER THIS SUBSECTION TO THE~~  
 4 ~~COMMISSION AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE~~  
 5 ~~GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.~~

6                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 7 June 1, 2014.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.