

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 08-0473.01 Jane Ritter

SENATE BILL 08-073

SENATE SPONSORSHIP

Tupa, Groff, Bacon, Johnson, Williams, and Windels

HOUSE SPONSORSHIP

Kefalas, Casso, Fischer, Todd, Benefield, Kerr A., Merrifield, Solano, and Weissmann

Senate Committees
Education

House Committees
Education

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR PUBLISHERS OF COLLEGE**
102 **EDUCATIONAL PRODUCTS DOING BUSINESS WITH STATE**
103 **INSTITUTIONS OF HIGHER EDUCATION, AND, IN CONNECTION**
104 **THEREWITH, ENACTING THE "COLLEGE TEXTBOOK**
105 **AFFORDABILITY ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires a publisher of college textbooks and supplemental learning materials ("textbooks") to make immediately available on its web site and to faculty members at state institutions of higher education

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unam ended
March 11, 2008

HOUSE
Am ended 2nd Reading
March 10, 2008

SENATE
3rd Reading Unam ended
February 20, 2008

SENATE
Am ended 2nd Reading
February 19, 2008

information concerning the price of the textbooks, history of substantive revisions to the textbooks, and estimated length of time the publisher intends to keep the textbooks on the market. Requires a publisher of a bundled textbook package to offer the option of purchasing the textbook and each of the individual products separately.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Students enrolled in a state institution of higher education are
5 entitled to affordable textbooks and educational products;

6 (b) The primary objective of faculty members and instructors is
7 to meet the educational needs of their students;

8 (c) Clarity in pricing is critical to the adoption and purchase of
9 course materials, and it is the shared responsibility of faculty members,
10 instructors, bookstores, students, and publishers to have and provide, to
11 the greatest extent possible, knowledge of current prices;

12 (d) Publishers of textbooks should market and sell their textbooks
13 and educational products using practices that are in the best interests of
14 the students; and

15 (e) Publishers of textbooks should provide faculty members and
16 instructors at state institutions of higher education with all necessary
17 information so that the faculty members and instructors may select
18 textbooks and educational products that best meet the needs of their
19 students, financially and academically.

20 (2) (a) The general assembly further finds and declares that
21 college and university bookstores should work with faculty members and
22 instructors to review timelines and processes involved in ordering and
23 stocking selected textbooks, disclose textbook costs to faculty members,

1 instructors, and students, and actively publicize and promote book
2 buyback programs; and

3 (b) The selection, availability, or pricing of college textbooks and
4 supplemental learning materials should not supersede the institutional
5 autonomy or academic freedom of colleges, universities, or faculty
6 members or instructors who teach at those institutions.

7 (3) Therefore, to accomplish the goals specified in paragraph (a)
8 of subsection (1) of this section, the general assembly hereby enacts the
9 "College Textbook Affordability Act".

10 **SECTION 2.** Article 5 of title 23, Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW SECTION to read:

12
13 **23-5-138. Textbooks - definitions - academic freedom.** (1) AS
14 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

15 (a) "ADOPTING ENTITY" MEANS THE PERSON OR PERSONS
16 RESPONSIBLE FOR SELECTING AND ORDERING A TEXTBOOK OR
17 SUPPLEMENTAL LEARNING MATERIAL FOR USE IN A COLLEGE COURSE AT A
18 STATE INSTITUTION OF HIGHER EDUCATION.

19 (b) "BUNDLE" MEANS ONE OR MORE COLLEGE TEXTBOOKS OR
20 OTHER SUPPLEMENTAL LEARNING MATERIALS OFFERED IN COMBINATION
21 WITH ONE OR MORE ADDITIONAL EDUCATIONAL PRODUCTS TO BE SOLD AS
22 COURSE MATERIALS FOR A SINGLE PRICE.

23 (c) "COLLEGE TEXTBOOK" MEANS A TEXTBOOK OR SET OF
24 TEXTBOOKS DEVELOPED FOR USE IN A COURSE IN POSTSECONDARY
25 EDUCATION AT A STATE INSTITUTION OF HIGHER EDUCATION. THE TERM
26 "COLLEGE TEXTBOOK" INCLUDES BUT NEED NOT BE LIMITED TO CUSTOM
27 TEXTBOOKS AND INTEGRATED TEXTBOOKS.

1 (d) "COURSE MATERIAL" MEANS ANY TEXTBOOK OR OTHER
2 INSTRUCTIONAL TOOL THAT IS PUBLISHED WITH THE INTENT THAT IT BE
3 USED FOR OR IN CONJUNCTION WITH CLASSROOM INSTRUCTION AND THAT
4 IS ADOPTED FOR ACADEMIC USE BY FACULTY MEMBERS, INSTRUCTORS, OR
5 THE PERSON OR ENTITY IN CHARGE OF SELECTING LEARNING MATERIAL AT
6 THE STATE INSTITUTION OF HIGHER EDUCATION.

7 (e) "CUSTOM TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT IS
8 COMPILED AT THE DIRECTION OF A FACULTY MEMBER, INSTRUCTOR, OR
9 OTHER PERSON OR ADOPTING ENTITY IN CHARGE OF SELECTING COURSE
10 MATERIALS AT A STATE INSTITUTION OF HIGHER EDUCATION. A CUSTOM
11 TEXTBOOK MAY INCLUDE BUT NEED NOT BE LIMITED TO SELECTIONS FROM
12 ORIGINAL INSTRUCTOR MATERIALS, PREVIOUSLY COPYRIGHTED PUBLISHER
13 MATERIALS, COPYRIGHTED THIRD-PARTY WORKS, OR ELEMENTS UNIQUE TO
14 A SPECIFIC INSTITUTION SUCH AS COMMEMORATIVE EDITIONS.

15 (f) "INTEGRATED TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT
16 IS COMBINED WITH MATERIALS AND IS DESIGNED SOLELY FOR USE AS A
17 COMBINED UNIT, OR THAT IS DEVELOPED BY A THIRD PARTY AND THAT,
18 ACCORDING TO THIRD-PARTY CONTRACTUAL AGREEMENTS, A PUBLISHER
19 MAY NOT OFFER SEPARATELY FROM THE TEXTBOOK WITH WHICH THE
20 MATERIALS ARE COMBINED.

21 (g) "PUBLISHER" MEANS A PUBLISHER OF COLLEGE TEXTBOOKS OR
22 SUPPLEMENTAL LEARNING MATERIALS.

23 (h) "STATE INSTITUTION OF HIGHER EDUCATION" SHALL HAVE THE
24 SAME MEANING AS PROVIDED IN SECTION 23-18-102 (10).

25 (i) "SUBSTANTIAL CONTENT" MEANS A PART OF A COLLEGE
26 TEXTBOOK, SUCH AS A NEW CHAPTER, COVERAGE OF AN ADDITIONAL
27 HISTORICAL ERA, A NEW THEME, OR NEW SUBJECT MATTER.

1 (j) "SUPPLEMENTAL LEARNING MATERIAL" MEANS EDUCATIONAL
2 MATERIAL DEVELOPED TO ACCOMPANY A COLLEGE TEXTBOOK.
3 SUPPLEMENTAL LEARNING MATERIAL IS NOT A COMPONENT OF AN
4 INTEGRATED TEXTBOOK. SUPPLEMENTAL LEARNING MATERIAL MAY
5 INCLUDE BUT NEED NOT BE LIMITED TO PRINTED MATERIALS, COMPUTER
6 DISKS, WEB SITE ACCESS, AND ELECTRONICALLY DISTRIBUTED MATERIALS.

7 (2) BEGINNING ON OR BEFORE JULY 1, 2009:

8 (a) WHEN A PUBLISHER PROVIDES A FACULTY MEMBER,
9 INSTRUCTOR, OR OTHER PERSON OR ADOPTING ENTITY IN CHARGE OF
10 SELECTING COURSE MATERIALS AT A STATE INSTITUTION OF HIGHER
11 EDUCATION WITH INFORMATION REGARDING A COLLEGE TEXTBOOK OR
12 SUPPLEMENTAL LEARNING MATERIAL, THE PUBLISHER SHALL PROVIDE IN
13 WRITING OR ELECTRONICALLY, THE FOLLOWING INFORMATION, AT A
14 MINIMUM:

15 (I) THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE
16 TEXTBOOK OR SUPPLEMENTAL LEARNING MATERIAL AVAILABLE;

17 (II) THE SUBSTANTIAL CONTENT REVISIONS MADE, IF ANY,
18 BETWEEN THE CURRENT EDITION OF THE COLLEGE TEXTBOOK OR
19 SUPPLEMENTAL LEARNING MATERIAL AND A PREVIOUS EDITION;

20 (III) WHETHER THE COLLEGE TEXTBOOK OR SUPPLEMENTAL
21 LEARNING MATERIAL IS AVAILABLE IN ANOTHER FORMAT, INCLUDING BUT
22 NOT LIMITED TO PAPERBACK OR UNBOUND COPIES, AND THE PRICE AT
23 WHICH THE PUBLISHER WOULD MAKE THE COLLEGE TEXTBOOK OR
24 SUPPLEMENTAL LEARNING MATERIAL IN THE OTHER FORMAT AVAILABLE.

25

26 (b) A PUBLISHER THAT SELLS A COLLEGE TEXTBOOK AND ANY
27 SUPPLEMENTAL LEARNING MATERIAL ACCOMPANYING THAT COLLEGE

1 TEXTBOOK AS A SINGLE BUNDLE TO A STATE INSTITUTION OF HIGHER
2 EDUCATION SHALL ALSO MAKE AVAILABLE THE COLLEGE TEXTBOOK AND
3 ANY OF THE SUPPLEMENTAL LEARNING MATERIALS AS SEPARATE AND
4 UNBUNDLED ITEMS AT SEPARATE PRICES.

5 (c) TO THE MAXIMUM EXTENT PRACTICABLE, A PUBLISHER SHALL
6 PROVIDE THE INFORMATION REQUIRED IN THIS SUBSECTION (2) FOR THE
7 DEVELOPMENT AND PROVISION OF CUSTOM TEXTBOOKS.

8 (3) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
9 SUPERSEDING THE INSTITUTIONAL AUTONOMY OR ACADEMIC FREEDOM OF
10 A STATE INSTITUTION OF HIGHER EDUCATION OR ITS FACULTY MEMBERS OR
11 INSTRUCTORS IN THE SELECTION OF COLLEGE TEXTBOOKS AND
12 SUPPLEMENTAL LEARNING MATERIALS.

13 **SECTION 3. Effective date.** This act shall take effect at 12:01
14 a.m. on the day following the expiration of the ninety-day period after
15 final adjournment of the general assembly that is allowed for submitting
16 a referendum petition pursuant to article V, section 1 (3) of the state
17 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
18 except that, if a referendum petition is filed against this act or an item,
19 section, or part of this act within such period, then the act, item, section,
20 or part, if approved by the people, shall take effect on the date of the
21 official declaration of the vote thereon by proclamation of the governor.