

AMENDED IN ASSEMBLY MARCH 25, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 146

Introduced by Assembly Member Mendoza

January 22, 2009

An act to amend Section 60061.5 of the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 146, as amended, Mendoza. Instructional materials: delivery.

Existing law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive. Every publisher or manufacturer of instructional materials offered for adoption or sale in California is required to comply with certain requirements, including guaranteeing delivery of textbooks and instructional materials prior to the opening of school in the year in which the textbooks and instructional materials are to be used if they are ordered by a date or dates specified in the contract with the district.

This bill would require a publisher or manufacturer of instructional materials offered for adoption or sale in California to guarantee delivery, if applicable, by the date specified in the contract with the district and would make a publisher or manufacturer that fails to deliver instructional materials within 60 days of the receipt of a purchase order from a school district liable for damages in the amount of \$500 for each working day that the order is delayed beyond 60 calendar days ~~unless late delivery results from circumstances beyond the control of the publisher or manufacturer~~ *a natural disaster, terrorist attack, act of war, or worker strike prevents the normal transit of instructional materials, resulting in their late delivery*, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60061.5 of the Education Code is
2 amended to read:
3 60061.5. A publisher or manufacturer shall do all of the
4 following:
5 (a) Actively solicit or make available a process through which
6 input concerning the quality, content, and usability of textbooks
7 and instructional materials can be obtained from educators, parents,
8 teachers, and pupils.
9 Upon request of a district governing board a publisher shall
10 provide a summation of that information including both positive
11 and critical input and their responses to the positive and critical
12 input.
13 (b) (1) Guarantee delivery of textbooks and instructional
14 materials prior to the opening of school in the year in which the
15 textbooks and instructional materials are to be used if they are
16 ordered by a date or dates specified in the contract with the district.
17 (2) If a publisher or manufacturer fails to deliver instructional
18 materials within 60 days of the receipt of a purchase order from a
19 school district and the publisher or manufacturer has not received
20 prior written approval from the district for a delay in delivery,
21 which shall not be unreasonably withheld, the publisher or
22 manufacturer shall be liable for damages in the amount of five
23 hundred dollars (\$500) for each working day that the order is
24 delayed beyond 60 calendar days.
25 ~~(3) If late delivery results from circumstances beyond the control~~
26 ~~of the publisher or manufacturer, the publisher or manufacturer~~
27 ~~shall not be held liable.~~
28 *(3) If a natural disaster, terrorist attack, act of war, or worker*
29 *strike prevents the normal transit of instructional materials,*
30 *resulting in their late delivery, neither the publisher nor the*
31 *manufacturer shall be held liable.*
32 (4) No publisher or manufacturer shall be liable for an amount
33 greater than twenty thousand dollars (\$20,000) for any individual
34 purchase order placed by a school district pursuant to this
35 subdivision.

1 (5) If a school district seeks to recover damages pursuant to this
2 subdivision, it shall give the publisher or manufacturer written
3 notification of the actual delivery date of the instructional materials
4 and the date upon which damages, as described in this subdivision,
5 began to accrue.

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