

ASSEMBLY BILL

No. 2635

Introduced by Assembly Members Arambula and Portantino

February 19, 2010

An act to amend Section 60061 of the Education Code, relating to instructional material.

LEGISLATIVE COUNSEL'S DIGEST

AB 2635, as introduced, Arambula. Education: instructional material. Existing law imposes specified requirements on a publisher or manufacturer of educational instructional material. If the publisher or manufacturer willfully fails to comply with the requirements, it is liable to the governing board, as specified.

This bill would specify that the publisher or manufacturer is also liable to the governing board if the failure to comply with the applicable requirements is due to gross negligence.

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 of the Education Code is amended
- 2 to read:
- 3 60061. (a) A publisher or manufacturer shall do all of the
- 4 following:
- 5 (1) Furnish the instructional materials offered by the publisher
- 6 at a price in this state that, including all costs of transportation to
- 7 that place, does not exceed the lowest price at which the publisher

1 offers those instructional materials for adoption or sale to any state
2 or school district in the United States.

3 (2) Automatically reduce the price of those instructional
4 materials to any governing board to the extent that reductions are
5 made elsewhere in the United States.

6 (3) Provide any instructional materials free of charge in this
7 state to the same extent as that received by any state or school
8 district in the United States.

9 (4) Guarantee that all copies of any instructional materials sold
10 in this state are at least equal in quality to the copies of those
11 instructional materials that are sold elsewhere in the United States,
12 and are kept revised, free from all errors, and up to date as may
13 be required by the state board.

14 (5) Not in any way, directly or indirectly, become associated or
15 connected with any combination in restraint of trade in instructional
16 materials, or enter into any understanding, agreement, or
17 combination to control prices or restrict competition in the sale of
18 instructional materials for use in this state.

19 (6) Maintain a representative, office, or depository in the State
20 of California or arrange with an independently owned and operated
21 depository in the State of California to receive and fill orders for
22 instructional materials.

23 (7) Provide to the state, at no cost, computer files or other
24 electronic versions of each state-adopted literary title and the right
25 to transcribe, reproduce, modify, and distribute the material in
26 braille, large print if the publisher does not offer a large print
27 edition, recordings, American Sign Language videos for the deaf,
28 or other specialized accessible media exclusively for use by pupils
29 with visual disabilities or other disabilities that prevent use of
30 standard instructional materials. Computer files or other electronic
31 versions of materials adopted shall be provided within 30 days of
32 request by the state as needed for the purposes described in this
33 subdivision as follows:

34 (A) Computer files or other electronic versions of literary titles
35 shall maintain the structural integrity of the standard instructional
36 materials, be compatible with commonly used braille translation
37 and speech synthesis software, and include corrections and
38 revisions as may be necessary.

39 (B) Computer files or other electronic versions of nonliterary
40 titles, including science and mathematics, shall be provided when

1 technology is available to convert those materials to a format that
2 maintains the structural integrity of the standard instructional
3 materials and is compatible with braille translation and speech
4 synthesis software.

5 (b) Upon the willful failure *or gross negligence* of the publisher
6 or manufacturer to comply with the requirements of this section,
7 the publisher or manufacturer shall be liable to the governing board
8 in the amount of three times the total sum that the publisher or
9 manufacturer was paid in excess of the price required under
10 paragraphs (1), (2), and (5) of subdivision (a), and in the amount
11 of three times the total value of the instructional materials and
12 services that the governing board is entitled to receive free of
13 charge under subdivision (a).

O