

AMENDED IN SENATE APRIL 27, 2009

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 16, 2009

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 388

Introduced by Senator Calderon

February 26, 2009

An act to add Section 66407 to the Education Code, relating to college textbooks.

LEGISLATIVE COUNSEL'S DIGEST

SB 388, as amended, Calderon. Educational materials.

The Donahoe Higher Education Act authorizes the activities of the 4 segments of the postsecondary education system in the state. These segments include the 3 public postsecondary segments: the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Private and independent postsecondary educational institutions constitute the other segment.

Existing law urges textbook publishers to take specified actions aimed at reducing the amounts that students pay for textbooks. Existing law requires the Trustees of the California State University and the Board of Governors of the California Community Colleges, and requests the Regents of the University of California, among other things, to work with the academic senates of each respective segment to encourage faculty to give consideration to the least costly practices in assigning

textbooks, to encourage faculty to disclose to students how new editions of textbooks are different from previous editions and the cost to students for textbooks selected, to review procedures for faculty to inform college and university bookstores of textbook selections, and to encourage faculty to work closely with publishers and college and university bookstores in creating bundles and packages that are economically sound.

Existing law expresses the intent of the Legislature to encourage private colleges and universities to work with their respective academic senates, and to encourage faculty to consider practices in selecting textbooks that will result in the lowest costs to students.

Existing law requires textbook publishers, for textbooks published on or after January 1, 2010, to print a summary of the substantive content differences between the new edition and any prior addition on, or within, the cover of the textbook, as well as the copyright date of the previous edition.

Existing law prohibits those responsible for choosing course materials and adopting textbooks at an institution of higher education from demanding or receiving anything of value for adopting specific course materials required for coursework instruction.

This bill would require any publisher of college textbooks who provides any information regarding college textbooks or supplemental materials, as defined, to disclose in writing to any faculty member or entity charged with selecting textbooks the amount that the textbook would be made available to the campus bookstore. The bill would require the publisher to make the textbook available at that price for at least 6 months and would require the publisher to inform the institution 45 days in advance of any price increase. The bill would require the publisher to inform the institution of previous editions and the substantial content revisions made from the previous edition. The bill would also require a publisher to provide bundled textbooks and supplemental material separately.

This bill would allow an action for an injunction to be brought against a publisher in superior court for violating these provisions.

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

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

SECTION 1. Section 66407 is added to the Education Code, to read:

66407. (a) This section shall be known and may be cited as the Accountability in College Textbook Publishing Practices Act.

(b) It is the intent of the Legislature that every student seeking a higher education in the state is offered affordable access to course materials and to do all of the following:

(1) To encourage textbook publishers and distributors to work with faculty to promote understanding of the cost to students of purchasing faculty selected textbooks, including the disclosure of prices and bundling practices.

(2) To encourage innovation in the development and use of course materials, including open textbooks and other open educational resources, that can help students receive the full value of their educational investment without excessive cost.

(3) To ensure that faculty members are informed of accurate and relevant pricing information for course materials and that students are protected as a consumer group.

(4) To strengthen and enforce existing federal regulations.

(c) As used in this section, the following terms have the following meanings:

(1) "College textbook" means a textbook or set of textbooks used for, or in conjunction with, a course at an institution of higher education.

(2) "Supplemental material" means educational material developed to accompany a college textbook, which may include printed materials, computer disks, Internet Web site access, and electronically distributed materials.

(3) "Bundle" means one or more college textbooks or other supplemental learning materials that may be packaged together to be sold as course material for one price.

(4) "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 and may include, alone or in combination, items such as selections from original instructor materials, previously copyrighted publisher materials,

1 copyrighted third-party works, and elements unique to a specific
2 institution, such as commemorative editions.

3 (5) “Integrated textbook” means a college textbook that is
4 combined with supplemental materials developed by a third party
5 that, by third-party contractual agreement, may not be offered by
6 publishers separately from the college textbook with which the
7 supplement materials are combined. “Integrated textbook” also
8 means a textbook that is combined with supplemental materials
9 that are so interrelated with the content of the textbook that the
10 separation of the textbook from the supplemental materials would
11 render the textbook unusable for its intended purpose.

12 (6) “Substantial content” means parts of a college textbook,
13 such as new chapters, additional eras of time, new themes, or new
14 subject matter.

15 (7) “Publisher” means a publisher of college textbooks or
16 supplemental materials that markets college textbooks or
17 supplemental materials to faculty members at institutions of higher
18 education.

19 (8) “Campus bookstore” means the bookstore on the campus
20 of, or otherwise associated with, an institution of higher education.

21 (9) For purposes of this section, “writing” includes electronic
22 communications.

23 (d) If a publisher provides a faculty member or entity in charge
24 of selecting course materials at an institution of higher education
25 with information regarding a college textbook or supplemental
26 material, the publisher shall include all of the following
27 information, in writing, in its communication:

28 (1) The price at which the publisher would make the college
29 textbook or supplemental material available to the institution’s
30 campus bookstore.

31 (2) The copyright dates of the three previous editions of the
32 college textbook in the preceding 10 years, if any.

33 (3) The substantial content revisions made between the current
34 edition of the college textbook or supplemental material and the
35 previous edition, if any.

36 (4) Whether the college textbook or supplemental material is
37 available in any other format, including paperback or unbound,
38 and the price at which the publisher would make the college
39 textbook or supplemental material in the other format available to
40 the institution’s campus bookstore.

1 (e) If a publisher provides a faculty member or entity in charge
2 of selecting course materials at an institution of higher education
3 with the price at which the publisher would make the college
4 textbook or supplemental material available to the institution's
5 campus bookstore as required by this section, the publisher shall
6 do both of the following:

7 (1) Make the college textbook or supplemental material available
8 to that institution's campus bookstore at or below the price for at
9 least six months.

10 (2) Notify the faculty member or entity in charge of selecting
11 course materials, and the campus bookstore, in writing, of any
12 increase in the price of the textbook or supplemental material,
13 including the amount of the increase, at least 45 days in advance
14 of the increase.

15 (f) A publisher that sells a college textbook and any
16 supplemental material as a bundle or as an integrated textbook
17 shall also make the college textbook and each item of supplemental
18 material available, as separate and unbundled items at separate
19 prices, except that this subdivision does not apply to integrated
20 textbooks.

21 (g) If a faculty member or entity in charge of selecting course
22 materials at an institution of higher education directs a publisher
23 to compile a custom textbook, the publisher shall provide, in
24 writing, prior to accepting an order for the custom textbook, the
25 price at which the publisher would make the custom textbook
26 available to the campus bookstore.

27 (h) Any publisher violating any of the provisions of this section
28 may be enjoined by any superior court of competent jurisdiction
29 upon action for an injunction. ~~restraining the publishers conduct.~~