

1001

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the
Committee on Higher Education

AN ACT to amend the education law, in relation to establishing the text-
book transparency act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new article 15-D
2 to read as follows:

3 ARTICLE 15-D

4 TEXTBOOK TRANSPARENCY ACT

5 SECTION 730. SHORT TITLE.

6 731. DEFINITIONS.

7 732. INFORMATION COLLEGE TEXTBOOK PUBLISHERS MUST PROVIDE TO
8 EDUCATIONAL INSTITUTIONS.

9 733. USING UNDISBURSED FINANCIAL AID TO PURCHASE TEXTBOOKS.

10 734. SEVERABILITY.

11 S 730. SHORT TITLE. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE
12 "TEXTBOOK TRANSPARENCY ACT."

13 S 731. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
14 HAVE THE FOLLOWING MEANINGS UNLESS OTHERWISE SPECIFIED:

15 1. "ADOPTER" MEANS ANY FACULTY MEMBER OR ACADEMIC DEPARTMENT AT AN
16 APPROVED INSTITUTION OF HIGHER EDUCATION RESPONSIBLE FOR CONSIDERING AND
17 CHOOSING COURSE MATERIALS TO BE USED IN CONNECTION WITH THE ACCREDITED
18 COURSES TAUGHT AT THE APPROVED INSTITUTION OF HIGHER EDUCATION;

19 2. "APPROVED INSTITUTION OF HIGHER EDUCATION" MEANS AN EDUCATIONAL
20 INSTITUTION LOCATED IN THIS STATE WHICH:

21 A. IS DIRECTLY CONTROLLED OR ADMINISTERED BY A PUBLIC AGENCY OR POLI-
22 TICAL SUBDIVISION;

23 B. RECEIVES APPROPRIATIONS DIRECTLY OR INDIRECTLY FROM THE LEGISLATURE
24 FOR OPERATING EXPENSES;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD04728-01-1

1 C. PROVIDES A POSTSECONDARY COURSE OF INSTRUCTION AT LEAST SIX MONTHS
2 IN LENGTH LEADING TO OR DIRECTLY CREDITABLE TOWARD A DEGREE OR CERTIF-
3 ICATE;

4 D. MEETS THE STANDARDS FOR ACCREDITATION AS DETERMINED BY THE MIDDLE
5 STATES COMMISSION ON HIGHER EDUCATION, OR IF A PUBLIC JUNIOR COLLEGE
6 MEETS THE STANDARDS ESTABLISHED BY THE COORDINATING BOARD FOR HIGHER
7 EDUCATION FOR SUCH PUBLIC JUNIOR COLLEGES, OR BY OTHER ACCREDITING
8 BODIES RECOGNIZED BY THE UNITED STATES OFFICE OF EDUCATION OR BY UTILIZ-
9 ING ACCREDITATION STANDARDS APPLICABLE TO THE INSTITUTION AS ESTABLISHED
10 BY THE COORDINATING BOARD FOR HIGHER EDUCATION;

11 E. DOES NOT DISCRIMINATE IN THE HIRING OF ADMINISTRATORS, FACULTY AND
12 STAFF OR IN THE ADMISSION OF STUDENTS ON THE BASIS OF RACE, COLOR, RELI-
13 GION, SEX, OR NATIONAL ORIGIN AND IS OTHERWISE IN COMPLIANCE WITH THE
14 FEDERAL CIVIL RIGHTS ACTS OF 1964 AND 1968 AND EXECUTIVE ORDERS ISSUED
15 PURSUANT THERETO; AND

16 F. PERMITS FACULTY MEMBERS TO SELECT TEXTBOOKS WITHOUT INFLUENCE OR
17 PRESSURE BY ANY RELIGIOUS OR SECTARIAN SOURCE;

18 3. "COLLEGE TEXTBOOK" MEANS A TEXTBOOK OR A SET OF TEXTBOOKS USED FOR
19 A COURSE OF POSTSECONDARY EDUCATION AT AN APPROVED PUBLIC INSTITUTION OF
20 HIGHER EDUCATION;

21 4. "INTEGRATED TEXTBOOK" MEANS A COLLEGE TEXTBOOK THAT:

22 A. IS COMBINED WITH MATERIALS DEVELOPED BY A THIRD PARTY AND THAT, BY
23 THIRD-PARTY CONTRACTUAL AGREEMENT, MAY NOT BE OFFERED BY PUBLISHERS
24 SEPARATELY FROM THE COLLEGE TEXTBOOK WITH WHICH THE MATERIALS ARE
25 COMBINED; OR

26 B. INCLUDES FUNCTIONALLY INTERDEPENDENT COURSE MATERIALS DESIGNED TO
27 BE USED SOLELY AS A SINGLE UNIT AND WHOSE SEPARATION WOULD SUBSTANTIALLY
28 DEGRADE THE ACADEMIC CONTENT SO THAT IT WOULD NOT BE USABLE TO THE
29 STUDENT;

30 5. "PRODUCTS" MEANS ALL VERSIONS OF A COLLEGE TEXTBOOK OR SET OF
31 COLLEGE TEXTBOOKS, EXCEPT CUSTOM TEXTBOOKS OR SPECIAL EDITIONS OF TEXT-
32 BOOKS, AVAILABLE IN THE SUBJECT AREA FOR WHICH A PROSPECTIVE PURCHASER
33 IS TEACHING A COURSE, INCLUDING SUPPLEMENTAL MATERIAL, BOTH WHEN SOLD
34 TOGETHER OR SEPARATELY FROM A COLLEGE TEXTBOOK;

35 6. "SUPPLEMENTAL MATERIAL" MEANS EDUCATIONAL MATERIAL THAT MAY ACCOM-
36 PANY A COLLEGE TEXTBOOK, INCLUDING PRINTED MATERIALS, COMPUTER DISKS,
37 WEBSITE ACCESS, AND ELECTRONICALLY DISTRIBUTED MATERIALS, THAT IS
38 NEITHER:

39 A. BOUND BY THIRD-PARTY CONTRACTUAL AGREEMENTS TO BE SOLD IN AN INTE-
40 GRATED TEXTBOOK; NOR

41 B. A COMPONENT OF AN INTEGRATED TEXTBOOK.

42 S 732. INFORMATION COLLEGE TEXTBOOK PUBLISHERS MUST PROVIDE TO EDUCA-
43 TIONAL INSTITUTIONS. 1. TO THE EXTENT PRACTICABLE, AN APPROVED INSTITU-
44 TION OF HIGHER EDUCATION SHALL ENCOURAGE FACULTY MEMBERS OR ADOPTERS TO
45 PLACE THEIR INITIAL ORDERS FOR COLLEGE TEXTBOOKS WITH SUFFICIENT TIME
46 FOR THE CAMPUS BOOKSTORE TO FACTOR SUCH INFORMATION INTO STUDENT
47 BUYBACK, RESEARCH THE AVAILABILITY OF THE COURSE MATERIAL, AND EXCHANGE,
48 WHEN APPROPRIATE, RELEVANT INFORMATION WITH FACULTY TO SUPPORT EFFECTIVE
49 USE OF COURSE MATERIALS SUCH AS BUNDLES AND TO PROMOTE COST EFFICIENCIES
50 FOR STUDENTS.

51 2. EACH PUBLISHER OF COLLEGE TEXTBOOKS SHALL PROVIDE, UPON REQUEST,
52 THE FOLLOWING INFORMATION TO FACULTY MEMBERS OR ADOPTERS AT AN APPROVED
53 INSTITUTION OF HIGHER EDUCATION, WHENEVER THE PUBLISHER PROVIDES A
54 FACULTY MEMBER OR ADOPTER WITH INFORMATION ABOUT THE PUBLISHER'S
55 PRODUCTS:

1 A. THE PRICE AT WHICH THE PUBLISHER WOULD MAKE THE PRODUCTS AVAILABLE
2 TO THE CAMPUS BOOKSTORE;

3 B. THE SUBSTANTIAL CONTENT REVISIONS FOR SUCH PRODUCTS MADE BETWEEN A
4 CURRENT TEXTBOOK EDITION AND THE PREVIOUS EDITION, IF ANY;

5 C. THE COPYRIGHT DATES OF ALL PREVIOUS EDITIONS OF SUCH COLLEGE TEXT-
6 BOOK IN THE PRECEDING TEN YEARS, IF ANY; AND

7 D. WHETHER THE PRODUCTS ARE AVAILABLE IN ANY OTHER FORMAT, INCLUDING
8 PAPERBACK AND UNBOUND, AND THE PRICE AT WHICH THE PUBLISHER WOULD MAKE
9 THE PRODUCTS IN THE OTHER FORMATS AVAILABLE TO THE CAMPUS BOOKSTORE.

10 3. A PUBLISHER THAT SELLS A COLLEGE TEXTBOOK AND ANY SUPPLEMENTAL
11 MATERIAL ACCOMPANYING SUCH COLLEGE TEXTBOOK AS A SINGLE BUNDLE SHALL
12 ALSO MAKE AVAILABLE THE COLLEGE TEXTBOOK AND EACH SUPPLEMENTAL MATERIAL
13 AS SEPARATE AND UNBUNDLED ITEMS, EACH SEPARATELY PRICED.

14 S 733. USING UNDISBURSED FINANCIAL AID TO PURCHASE TEXTBOOKS. WHERE
15 EXISTING TECHNOLOGY AND CONTRACTS MAKE IT FEASIBLE, AN APPROVED PUBLIC
16 INSTITUTION OF HIGHER EDUCATION SHALL DEVELOP A POLICY THAT PERMITS
17 STUDENTS TO USE FINANCIAL AID THAT HAS NOT BEEN DISBURSED FOR TUITION OR
18 FEES TO PURCHASE REQUIRED TEXTBOOKS FOR COURSES TAUGHT AT THE INSTITU-
19 TION AT STORES ON THE CAMPUS OF THE INSTITUTION.

20 S 734. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, OR SECTION OF
21 THIS ARTICLE SHALL BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO
22 BE INVALID AND AFTER EXHAUSTION OF ALL FURTHER JUDICIAL REVIEW, THE
23 JUDGMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE REMAINDER THEREOF,
24 BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARA-
25 GRAPH, OR SECTION OF THIS ARTICLE DIRECTLY INVOLVED IN THE CONTROVERSY
26 IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED. THE PROVISIONS OF THIS
27 SECTION SHALL APPLY TO ALL SECTIONS OF THIS ARTICLE EXCEPT THOSE
28 SECTIONS WHICH ARE EXPRESSLY SUBJECT TO SEPARATE SEVERABILITY PROVISIONS
29 CONTAINED HEREINBEFORE IN THIS ARTICLE.

30 S 2. This act shall take effect on the first of July next succeeding
31 the date on which it shall have become a law.