

## CHAPTER 108

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**EDUCATION - UNIVERSITIES AND COLLEGES**


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**SENATE BILL 08-073**

BY SENATOR(S) Tupa, Groff, Bacon, Johnson, Williams, Windels, Boyd, Gibbs, Gordon, Harvey, Keller, Kopp, Mitchell S., Penry, Sandoval, Schwartz, Shaffer, Tochtrop, and Veiga;  
 also REPRESENTATIVE(S) Kefalas, Casso, Fischer, Todd, Benefield, Kerr A., Merrifield, Solano, Weissmann, Ferrandino, Gagliardi, Green, Jahn, King, Labuda, Levy, Lundberg, Madden, Marostica, Massey, McFadyen, Middleton, Peniston, Primavera, and Rice.

**AN ACT**

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

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

**SECTION 1. Legislative declaration - short title.** (1) The general assembly hereby finds and declares that:

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

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

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

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

(e) Publishers of textbooks should provide faculty members and instructors at state institutions of higher education with all necessary information so that the faculty members and instructors may select textbooks and educational products that

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

best meet the needs of their students, financially and academically.

(2) The general assembly further finds and declares that:

(a) College and university bookstores should work with faculty members and instructors to review timelines and processes involved in ordering and stocking selected textbooks, disclose textbook costs to faculty members, instructors, and students, and actively publicize and promote book buyback programs; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A PUBLISHER THAT SELLS A COLLEGE TEXTBOOK AND ANY SUPPLEMENTAL LEARNING MATERIAL ACCOMPANYING THAT COLLEGE TEXTBOOK AS A SINGLE BUNDLE TO A STATE INSTITUTION OF HIGHER EDUCATION SHALL ALSO MAKE AVAILABLE THE COLLEGE TEXTBOOK AND ANY OF THE SUPPLEMENTAL LEARNING MATERIALS AS SEPARATE AND UNBUNDLED ITEMS AT SEPARATE PRICES.

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

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

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

Approved: April 8, 2008