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HOUSE BILL 2911

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Kenney, Morrell, Fromhold, Cox and Darneille; by request of State Board for Community and Technical Colleges

Read first time 01/22/2004. Referred to Committee on Higher Education.

1 AN ACT Relating to instructional materials for students with  
2 disabilities; adding a new section to chapter 28B.10 RCW; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.10 RCW  
6 to read as follows:

7 (1) An individual, firm, partnership or corporation that publishes  
8 or manufactures instructional materials for students attending any  
9 public or private institution of higher education in the state of  
10 Washington shall provide to the public or private institution of higher  
11 education, for use by students attending the institution, any  
12 instructional material in an electronic format mutually agreed upon by  
13 the publisher or manufacturer and the public or private institution of  
14 higher education. Computer files or electronic versions of printed  
15 instructional materials shall be provided; video materials must be  
16 captioned or accompanied by transcriptions of spoken text; and audio  
17 materials must be accompanied by transcriptions. These supplemental  
18 materials shall be provided to the public or private institution of

1 higher education at no additional cost and in a timely manner, upon  
2 receipt of a written request as provided in subsection (2) of this  
3 section.

4 (2) A written request for supplemental materials must:

5 (a) Certify that the public or private institution of higher  
6 education has purchased the instructional material for use by a student  
7 with a print access disability or that a student with a print access  
8 disability attending or registered to attend that public or private  
9 institution of higher education has purchased the instructional  
10 material;

11 (b) Certify that the student has a print access disability that  
12 substantially prevents him or her from using standard instructional  
13 materials;

14 (c) Certify that the instructional material is for use by the  
15 student in connection with a course in which he or she is registered or  
16 enrolled at the public or private institution of higher education; and

17 (d) Be signed by the coordinator of services for students with  
18 disabilities at the public or private institution of higher education  
19 or by the college or campus official responsible for monitoring  
20 compliance with the Americans with Disabilities Act of 1990 (42 U.S.C.  
21 12101 et seq.) at the public or private institution of higher  
22 education.

23 (3) An individual, firm, partnership or corporation specified in  
24 subsection (1) of this section may also require that, in addition to  
25 the requirements in subsection (2) of this section, the request include  
26 a statement signed by the student agreeing to both of the following:

27 (a) He or she will use the instructional material provided in  
28 specialized format solely for his or her own educational purposes; and

29 (b) He or she will not copy or duplicate the instructional material  
30 provided in specialized format for use by others.

31 (4) If a public or private institution of higher education permits  
32 a student to directly use the specialized format version of an  
33 instructional material, the media must be copy-protected or the public  
34 or private institution of higher education shall take other reasonable  
35 precautions to ensure that students do not copy or distribute  
36 specialized format versions of instructional materials in violation of  
37 the Copyright Revisions Act of 1976, as amended (17 U.S.C. Sec. 101 et  
38 seq.).

1 (5) For purposes of this section:

2 (a) "Instructional material or materials" means textbooks and other  
3 materials that are required or essential to a student's success in a  
4 postsecondary course of study in which a student with a disability is  
5 enrolled. The determination of which materials are "required or  
6 essential to student success" shall be made by the instructor of the  
7 course in consultation with the official making the request in  
8 accordance with guidelines issued pursuant to subsection (9) of this  
9 section. The term specifically includes both textual and nontextual  
10 information.

11 (b) "Print access disability" means a condition in which a person's  
12 independent reading of, reading comprehension of, or visual access to  
13 materials is limited or reduced due to a sensory, neurological,  
14 cognitive, physical, psychiatric, or other disability recognized by  
15 state or federal law. The term is applicable, but not limited to,  
16 persons who are blind, have low vision, or have reading disorders or  
17 physical disabilities.

18 (c) "Structural integrity" means all instructional material,  
19 including but not limited to the text of the material, sidebars, the  
20 table of contents, chapter headings and subheadings, footnotes,  
21 indexes, glossaries, graphs, charts, illustrations, pictures,  
22 equations, formulas, and bibliographies. Structural order of material  
23 shall be maintained. Structural elements, such as headings, lists, and  
24 tables must be identified using current markup and tools. If good  
25 faith efforts fail to produce an agreement between the publisher or  
26 manufacturer and the public or private institution of higher education,  
27 as to an electronic format that will preserve the structural integrity  
28 of instructional materials, the publisher or manufacturer shall provide  
29 the instructional material in a verified and valid HTML format and  
30 shall preserve as much of the structural integrity of the instructional  
31 materials as possible.

32 (d) "Specialized format" means Braille, audio, or digital text that  
33 is exclusively for use by blind or other persons with print access  
34 disabilities.

35 (6) Nothing in this section is to be construed to prohibit a public  
36 or private institution of higher education from assisting a student  
37 with a print access disability through the use of an electronic version  
38 of instructional material gained through this section or by

1 transcribing or translating or arranging for the transcription or  
2 translation of the instructional material into specialized formats that  
3 provide persons with print access disabilities the ability to have  
4 increased independent access to instructional materials. If such  
5 specialized format is made, the public or private institution of higher  
6 education may share the specialized format version of the instructional  
7 material with other students with print access disabilities for whom  
8 the public or private institution of higher education is authorized to  
9 request electronic versions of instructional material. The addition of  
10 captioning to video material by a Washington public or private  
11 institution of higher education does not constitute an infringement of  
12 copyright.

13 (7) A specialized format version of instructional materials  
14 developed at one public or private institution of higher education in  
15 Washington state may be shared for use by a student at another public  
16 or private institution of higher education in Washington state for whom  
17 the latter public or private institution of higher education is  
18 authorized to request electronic versions of instructional material.

19 (8) Nothing in this section shall be deemed to authorize any use of  
20 instructional materials that would constitute an infringement of  
21 copyright under the Copyright Revision Act of 1976, as amended (17  
22 U.S.C. Sec. 101 et seq.).

23 (9) The governing boards of public and private institutions of  
24 higher education in Washington state shall each adopt guidelines  
25 consistent with this section for its implementation and administration.  
26 At a minimum, the guidelines shall address all of the following:

27 (a) The designation of materials deemed "required or essential to  
28 student success";

29 (b) The determination of the availability of technology for the  
30 conversion of materials pursuant to subsection (4) of this section and  
31 the conversion of mathematics and science materials pursuant to  
32 subsection (5)(c) of this section;

33 (c) The procedures and standards relating to distribution of files  
34 and materials pursuant to this section; and

35 (d) Other matters as are deemed necessary or appropriate to carry  
36 out the purposes of this section.

1           (10) Failure to comply with the requirements of this section is a  
2 violation of RCW 70.84.070.

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