

**HB 2638** - S COMM AMD

By Committee on Higher Education & Workforce Development

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION. **Sec. 1.** The legislature finds that the knowledge,  
4 skill, and ability to succeed both academically and later in a chosen  
5 profession are accumulated through myriad sources, including  
6 instructional materials. Therefore, it is the intent of the  
7 legislature to ensure that students provided with instructional  
8 materials pursuant to RCW 28B.10.916 be permitted to retain those  
9 materials if they so desire.

10       **Sec. 2.** RCW 28B.10.916 and 2004 c 46 s 1 are each amended to read  
11 as follows:

12       (1) An individual, firm, partnership or corporation that publishes  
13 or manufactures instructional materials for students attending any  
14 public or private institution of higher education in the state of  
15 Washington shall provide to the public or private institution of higher  
16 education, for use by students attending the institution, any  
17 instructional material in an electronic format mutually agreed upon by  
18 the publisher or manufacturer and the public or private institution of  
19 higher education. Computer files or electronic versions of printed  
20 instructional materials shall be provided; video materials must be  
21 captioned or accompanied by transcriptions of spoken text; and audio  
22 materials must be accompanied by transcriptions. These supplemental  
23 materials shall be provided to the public or private institution of  
24 higher education at no additional cost and in a timely manner, upon  
25 receipt of a written request as provided in subsection (2) of this  
26 section.

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

28       (a) Certify that a student with a print access disability attending  
29 or registered to attend a public or participating private institution

1 of higher education has purchased the instructional material or the  
2 public or private institution of higher education has purchased the  
3 instructional material for use by a student with a print access  
4 disability;

5 (b) Certify that the student has a print access disability that  
6 substantially prevents him or her from using standard instructional  
7 materials;

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

11 (d) Be signed by the coordinator of services for students with  
12 disabilities at the public or private institution of higher education  
13 or by the college or campus official responsible for monitoring  
14 compliance with the Americans with disabilities act of 1990 (42 U.S.C.  
15 12101 et seq.) at the public or private institution of higher  
16 education.

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

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

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

25 (4) A public or private institution of higher education or an  
26 individual, firm, partnership, or corporation specified in subsection  
27 (1) of this section that provides a specialized format version of  
28 instructional material pursuant to subsections (1), (2), and (3) of  
29 this section may not require that the student who purchased the  
30 instructional material return the specialized format version of the  
31 instructional material.

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

1           (~~(5)~~) (6) 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)~~) (10)  
9 of this section. The term specifically includes both textual and  
10 nontextual 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)~~) (7) Nothing in this section is to be construed to prohibit  
36 a public or private institution of higher education from assisting a  
37 student with a print access disability through the use of an electronic  
38 version 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))~~ (8) 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))~~ (9) Nothing in this section shall be deemed to authorize  
20 any use of instructional materials that would constitute an  
21 infringement of copyright under the copyright revision act of 1976, as  
22 amended (17 U.S.C. Sec. 101 et seq.).

23 ~~((+9))~~ (10) The governing boards of public and participating  
24 private institutions of higher education in Washington state shall each  
25 adopt guidelines consistent with this section for its implementation  
26 and administration. At a minimum, the guidelines shall address all of  
27 the following:

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

30 (b) The determination of the availability of technology for the  
31 conversion of materials pursuant to subsection ~~((+4))~~ (5) of this  
32 section and the conversion of mathematics and science materials  
33 pursuant to subsection ~~((+5))~~ (6)(c) of this section;

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

36 (d) The guidelines shall include procedures for granting exceptions  
37 when it is determined that an individual, firm, partnership or

1 corporation that publishes or manufactures instructional materials is  
2 not technically able to comply with the requirements of this section;  
3 and

4 (e) Other matters as are deemed necessary or appropriate to carry  
5 out the purposes of this section.

6 ((+10+)) (11) A violation of this chapter constitutes an unfair  
7 practice under chapter 49.60 RCW, the law against discrimination. All  
8 rights and remedies under chapter 49.60 RCW, including the right to  
9 file a complaint with the human rights commission and to bring a civil  
10 action, apply."

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11 On page 1, line 2 of the title, after "version;" strike the  
12 remainder of the title and insert "amending RCW 28B.10.916; and  
13 creating a new section."

EFFECT: Clarifies that neither a publisher nor institution of  
higher education may require a student to return purchased materials.

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