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**SUBSTITUTE SENATE BILL 6501**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** Senate Committee on Higher Education (originally sponsored by Senators Carlson, Kohl-Welles, Pflug, Jacobsen, Schmidt, Rasmussen, Shin, Winsley and McAuliffe; by request of State Board for Community and Technical Colleges)

READ FIRST TIME 02/05/04.

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

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

38 (5) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

1 not technically able to comply with the requirements of this section;  
2 and

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

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

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