Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 202

HOUSE BILL 2352

AN ACT

AMENDING TITLE 15, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; RELATING TO ACCESSIBILITY TO TEXTBOOKS AND INSTRUCTIONAL MATERIALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 15, chapter 7, Arizona Revised Statutes, is amended
3 by adding article 2.1, to read:
4 ARTICLE 2.1. ACCESSIBILITY TO TEXTBOOKS
5 AND INSTRUCTIONAL MATERIALS
6 15-731. Definitions
7 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
8 1. "ACCESSIBLE ELECTRONIC FILE" MEANS, UNTIL A NATIONAL FILE FORMAT
9 IS ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION, A DIGITAL FILE IN
10 A MUTUALLY AGREED ON BY THE PUBLISHER AND THE LOCAL EDUCATIONAL AGENCY
11 ELECTRONIC FILE FORMAT THAT HAS BEEN PREPARED USING A MARKUP LANGUAGE THAT
12 MAINTAINS THE STRUCTURAL INTEGRITY OF THE INFORMATION AND CAN BE PROCESSED
13 BY CONVERSION SOFTWARE. IF A NATIONAL FILE FORMAT IS ADOPTED BY THE UNITED
14 STATES DEPARTMENT OF EDUCATION, "ACCESSIBLE ELECTRONIC FILE" MEANS AN
15 ELECTRONIC FILE CONFORMING TO THE SPECIFICATIONS OF THE NATIONAL FILE FORMAT
16 ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION.
17 2. "AVAILABLE AUTHORIZED ENTITY" MEANS AN AUTHORIZED ENTITY, AS
18 DEFINED BY 17 UNITED STATES CODE SECTION 121, THAT COMMONLY PROVIDES
19 ALTERNATIVE FORMAT SCHOOL MATERIALS THAT ARE ACCESSIBLE BY SCHOOLS IN THIS
20 STATE AND THAT HAS THE VENDOR'S AUTHORIZATION TO MAKE ALTERNATIVE FORMATS.
21 3. "CHILD WITH A DISABILITY" MEANS A PUPIL WHO IS SUBJECT TO AN
22 INDIVIDUALIZED EDUCATION PLAN PURSUANT TO THE INDIVIDUALS WITH DISABILITIES
23 EDUCATION ACT OF 1997 (20 UNITED STATES CODE SECTIONS 1400 THROUGH 1415) OR
24 A PUPIL WITH A SECTION 504 PLAN, AND WHOSE INDIVIDUALIZED EDUCATION PLAN OR
25 SECTION 504 PLAN REQUIRES THE USE OF INSTRUCTIONAL MATERIALS IN A SPECIALIZED
26 FORMAT.
27 4. "INDIVIDUALIZED EDUCATION PLAN" HAS THE SAME MEANING PRESCRIBED IN
28 20 UNITED STATES CODE SECTIONS 1401 AND 1412 AND SECTION 15-761.
29 5. "NONPRINTED INSTRUCTIONAL MATERIALS" MEANS NONPRINTED TEXTBOOKS AND
30 RELATED CORE MATERIALS, INCLUDING THOSE THAT REQUIRE THE AVAILABILITY OF
31 ELECTRONIC EQUIPMENT IN ORDER TO BE USED AS A LEARNING RESOURCE, THAT ARE
32 WRITTEN AND PUBLISHED PRIMARILY FOR USE IN ELEMENTARY SCHOOL AND SECONDARY
33 SCHOOL INSTRUCTION AND THAT ARE REQUIRED BY A STATE EDUCATIONAL AGENCY OR A
34 LOCAL EDUCATIONAL AGENCY FOR USE BY PUPILS IN THE CLASSROOM. THESE MATERIALS
35 SHALL BE AVAILABLE TO THE EXTENT TECHNOLOGICALLY AVAILABLE AND MAY INCLUDE
36 SOFTWARE PROGRAMS AND INTERNET BASED MATERIALS.
37 6. "PRINTED INSTRUCTIONAL MATERIALS" MEANS TEXTBOOKS AND RELATED
38 PRINTED CORE MATERIALS THAT ARE WRITTEN AND PUBLISHED PRIMARILY FOR USE IN
39 ELEMENTARY SCHOOL AND SECONDARY SCHOOL INSTRUCTION AND THAT ARE REQUIRED BY
40 A STATE EDUCATIONAL AGENCY OR A LOCAL EDUCATIONAL AGENCY FOR USE BY PUPILS
41 IN THE CLASSROOM.
42 7. "SECTION 504 PLAN" MEANS A WRITTEN STATEMENT DEVELOPED FOR A PUPIL
43 WITH A DISABILITY THAT INCLUDES THE PROVISION OF REGULAR OR SPECIAL EDUCATION
44 AND RELATED AIDS AND SERVICES, INCLUDING ASSISTIVE TECHNOLOGY, THAT IS

1 DESIGNED TO MEET INDIVIDUAL EDUCATIONAL NEEDS IN ACCORDANCE WITH 34 CODE OF
2 FEDERAL REGULATIONS PART 104.
3 8. "STRUCTURAL INTEGRITY" MEANS THE STRUCTURE OF ALL PARTS OF THE
4 PRINTED INSTRUCTIONAL MATERIAL ARE KEPT INTACT TO THE EXTENT FEASIBLE AND AS
5 MUTUALLY AGREED ON BY THE PUBLISHER AND THE LOCAL EDUCATIONAL AGENCY. IF A
6 NATIONAL FILE FORMAT IS ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION,
7 THE NATIONAL FILE FORMAT'S TECHNICAL SPECIFICATIONS FOR STRUCTURAL INTEGRITY
8 ARE REQUIRED IN THE ACCESSIBLE ELECTRONIC FILE.
9 9. "VENDOR" MEANS A PERSON OR ENTITY THAT OFFERS PRINTED OR NONPRINTED
10 INSTRUCTIONAL MATERIALS FOR COMMERCIAL SALE TO A SCHOOL DISTRICT AND OTHER
11 PUBLIC SCHOOLS.
12 15-732. Powers and duties; state board of education; governing
13 boards
14 A. THE STATE BOARD OF EDUCATION SHALL ADOPT RULES ON OR BEFORE AUGUST
15 1, 2005 THAT REQUIRE ALL SCHOOL DISTRICTS AND OTHER PUBLIC SCHOOLS TO
16 PURCHASE ADOPTED PRINTED AND NONPRINTED INSTRUCTIONAL MATERIALS FOR WHICH
17 ACCESSIBLE ELECTRONIC FILES ARE AVAILABLE OR, IN THE CASE OF NONPRINTED
18 INSTRUCTIONAL MATERIALS DELIVERED ONLINE, THAT COMPLY WITH SUBSECTION B OF
19 THIS SECTION. THE RULES SHALL ESTABLISH PROCEDURES AND TIMELINES TO ENSURE
20 THAT ACCESSIBLE MATERIALS ARE DISTRIBUTED TO A CHILD WITH A DISABILITY AT THE
21 SAME TIME THAT PRINTED AND NONPRINTED INSTRUCTIONAL MATERIALS ARE DISTRIBUTED
22 TO OTHER STUDENTS. THE RULES SHALL REQUIRE THE VENDOR TO SUBMIT THE
23 ACCESSIBLE ELECTRONIC FILES TO ONE OR MORE AUTHORIZED ENTITIES, FOR
24 CONVERSION BY SUCH AUTHORIZED ENTITIES INTO ACCESSIBLE FORMATS FOR USE BY A
25 CHILD WITH A DISABILITY. THE RULES SHALL PROHIBIT UNAUTHORIZED COPYING,
26 MODIFICATION AND DISTRIBUTION OF THE ACCESSIBLE ELECTRONIC FILES, INCLUDING
27 DISTRIBUTION OF UNENCRYPTED OR REPRODUCIBLE ACCESSIBLE ELECTRONIC FILES TO
28 OTHER THAN AUTHORIZED ENTITIES. THIS SECTION APPLIES ONLY TO NEWLY ADOPTED
29 PRINTED AND NONPRINTED INSTRUCTIONAL MATERIALS ADOPTED AFTER THE 2005-2006
30 SCHOOL YEAR AND WITH AN ORIGINAL COPYRIGHT DATE OF 2004 OR LATER.
31 B. ONLINE NONPRINTED INSTRUCTIONAL MATERIALS SHALL BE DEEMED COMPLIANT
32 FOR PURPOSES OF SUBSECTION A OF THIS SECTION IF THEY MEET OR EXCEED STANDARDS
33 FOR INTERNET ACCESSIBILITY, AS SET FORTH IN SECTION 508 OF THE REHABILITATION
34 ACT OF 1973, AS AMENDED BY 29 UNITED STATES CODE SECTION 794D, AND
35 REGULATIONS IMPLEMENTING THAT ACT AS SET FORTH IN PART 1194 OF TITLE 36 OF
36 THE CODE OF FEDERAL REGULATIONS.
37 C. PRINTED AND ONLINE NONPRINTED INSTRUCTIONAL MATERIALS ARE EXEMPT
38 FROM THIS ARTICLE IF PROVIDING AN ACCESSIBLE ELECTRONIC FILE WOULD DO ANY OF
39 THE FOLLOWING:
40 1. FUNDAMENTALLY ALTER THE NATURE OF THE INSTRUCTIONAL ACTIVITY.
41 2. RESULT IN UNDUE FINANCIAL AND ADMINISTRATIVE BURDENS ON ANY STATE
42 AGENCY, SCHOOL DISTRICT OR SCHOOL.
43 3. CAUSE SUCH RESOURCES NOT TO MEET STATE CONTENT STANDARDS, ADOPTION
44 CRITERIA OR OTHER APPLICABLE SPECIFICATIONS.

D. THE GOVERNING BOARD OF EACH SCHOOL DISTRICT OR THE GOVERNING BODY OF ANOTHER PUBLIC SCHOOL THAT SOLICITS BIDS PURSUANT TO THIS SECTION SHALL PROVIDE WRITTEN NOTIFICATION OF THE REQUIREMENTS OF THIS ARTICLE AND RELATED AND SUBSEQUENT RULES TO VENDORS BEFORE SOLICITING BIDS FOR PRINTED AND NONPRINTED INSTRUCTIONAL MATERIALS.

E. THIS SECTION DOES NOT PERMIT REPRODUCTION, MODIFICATION OR DISTRIBUTION OF ACCESSIBLE ELECTRONIC FILES OR OF PRINTED OR NONPRINTED INSTRUCTIONAL MATERIALS WITHOUT THE PERMISSION OF THE COPYRIGHT HOLDER, AND DOES NOT REQUIRE VENDORS OR COPYRIGHT HOLDERS TO PROVIDE COPIES OR AUTHORIZE USES OF THE ELECTRONIC FILES OR INSTRUCTIONAL MATERIALS WITHOUT COMPENSATION, EXCEPT AS PROVIDED BY 17 UNITED STATES CODE SECTION 121. SCHOOL DISTRICTS AND OTHER PUBLIC SCHOOLS SHALL CERTIFY THAT NO REPRODUCTION OR MODIFICATION SHALL OCCUR WITHOUT THE EXPRESS AUTHORIZATION OF THE COPYRIGHT HOLDER WHILE MATERIALS ARE IN THE CUSTODY OF THE SCHOOL DISTRICT OR OTHER PUBLIC SCHOOL.

F. NOTHING IN THIS SECTION REDUCES THE OBLIGATION OF THE STATE BOARD OF EDUCATION AND THE GOVERNING BOARD OF A SCHOOL DISTRICT OR THE GOVERNING BODY OF ANOTHER PUBLIC SCHOOL TO PROVIDE FOR THE INSTRUCTION OF VISUALLY IMPAIRED PUPILS IN THE USE OF BRAILLE OR TO PROVIDE BRAILLE TEXTBOOKS AS PRESCRIBED IN SECTION 15-214.

G. IF A NATIONAL FILE FORMAT IS ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION, NOTHING IN THIS SECTION REQUIRES PUBLISHERS TO PRODUCE ACCESSIBLE ELECTRONIC FILES THAT ARE INCONSISTENT WITH OR MORE STRINGENT THAN THE SPECIFICATIONS OF THE NATIONALLY ADOPTED FILE FORMAT.

H. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO APPLY TO A PRIVATE SCHOOL.

APPROVED BY THE GOVERNOR MAY 6, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2004.

STATE OF SENATE

Passed the House March 9, 2004, by the following vote: 56 Ayes, 2 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 15, 2004, by the following vote: 29 Ayes, 0 Nays, 1 Not Voting

Ken Bennett
President of the Senate

Thomas Betlach
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary of State

H.B. 2352

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 3, 2004,

by the following vote: 48 Ayes,

5 Nays, 7 Not Voting

Speaker of the House

Pro Tempore

Norman L. Moore

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3rd day of May, 2004

at 2:21 o'clock P. M.

Jennifer Ybarra

Secretary to the Governor

Approved this 6 day of

May, 2004,

at 10:10 o'clock A. M.

Governor of Arizona

H.B. 2352

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 6 day of May, 2004,

at 11:09 o'clock A M.

Janice K. Brewer

Secretary of State