

ACT 220

S.B. NO. 2063

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§302A- Textbook and instructional materials fee special account. There is established within the department a textbook and instructional materials fee special account, into which shall be deposited all fees and charges collected from students or their parents or guardians pursuant to section 302A-1130.5. Disbursements from this special account shall be expended by the department for the

purposes of purchasing, replacing, or repairing school textbooks, instructional materials, library books, equipment, or supplies.”

SECTION 2. Section 302A-101, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““School textbooks, instructional materials, library books, equipment, or supplies” includes any book, printed matter, or other material used in a particular course of study.”

SECTION 3. Section 302A-442.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-442.5]~~ **Instructional materials**~~[-];~~ **exceptional children.** (a) Whenever used in this section, unless a different meaning clearly appears from the context:

“Braille” means the system of reading and writing through touch commonly known as standard English braille.

~~["Textbooks and other instructional materials" means any literary or nonliterary works obtained for use in a course of study.]~~

(b) All publishers of textbooks ~~[or other]~~ and instructional materials sold to the State or any ~~[local education agency]~~ **public school** shall furnish computer diskettes for literary subjects in the American Standard Code for Information Interchange from which braille versions can be produced. Publishers shall also furnish computer diskettes in American Standard Code for Information Interchange for nonliterary subjects including natural sciences, computer science, mathematics, and music when braille specialty code translation software is available.

(c) This section shall not apply to publishers of textbooks and ~~[other]~~ instructional materials written in the Hawaiian language.”

SECTION 4. Section 302A-1130, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1130 Public schools special fees and charges; [standards;] grouping of students. (a) ~~[No equipment, material, or other fees shall be assessed against any pupil in any school, except that the]~~ The department may assess and collect special fees and charges from ~~[pupils]~~ **students** for co-curricular activities ~~[and from pupils who negligently break, damage, lose, or destroy school books, equipment, or supplies. Any pupil found to be responsible for the loss, destruction, breakage, or damage of school books, which shall include library and textbooks, of equipment, or of supplies, shall make restitution to the school in any manner, including the payment by the pupil or the pupil's parents of the actual replacement costs.~~

~~(b) No pupil shall be required to make restitution in any manner unless the pupil and the pupil's parents or guardians have been notified and have been given an opportunity to be heard before the principal of the school on the charges that the pupil was responsible for the loss, destruction, breakage, or damage of school books, equipment, or supplies.~~

~~(c) If the principal, upon a hearing on the charges, has reasonable cause to believe that the pupil is responsible for the loss, destruction, breakage, or damage of school books, equipment, or supplies, the principal shall design a restitution program that shall be submitted to the pupil and the pupil's parents or guardian for agreement in writing.~~

If restitution is made in this fashion, then no information about the charges, the hearing, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the determination made by the principal, the principal shall report to the complex area superintendent the determination and the findings made by the principal, including all the records and documents regarding the investigation, for any further action.

(d) Notwithstanding any other provisions in this section to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this section shall limit the right of the State to bring any action against any person to recover the damages].

(e) (b) Special fees and charges collected from [pupils] students for co-curricular activities shall be deposited into insured checking or savings accounts and expended by each individual school [under rules adopted by the department pursuant to chapter 91].

(f) Special fees and charges collected from pupils who negligently break, damage, lose, or destroy school books, equipment, or supplies shall be deposited in a fund and expended by the department under rules adopted pursuant to chapter 91.

(g) (c) The department may [continue to] group [pupils] students within any public school in accordance with their abilities and educational needs.”

SECTION 5. Section 302A-1130.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[E]§302A-1130.5[.]~~ **Textbook replacement fees, [fines.] restitution; textbook list.** ~~[(a) School principals shall recover special fees and charges for lost, damaged, destroyed, or broken books as authorized under section 302A-1130.~~

~~(b) All special fees and charges for lost, damaged, destroyed, or broken books shall remain at the school level.~~

~~(e) The school principal shall exercise any other supervisory powers that shall be necessary to provide satisfactory recovery and proper care of textbooks on a schoolwide basis as provided by law.]~~ (a) The department may assess and collect special fees and charges from students who negligently break, damage, lose, or destroy school textbooks, instructional materials, library books, equipment, or supplies as determined by the principal. Any student found to be responsible for the loss, destruction, breakage, or damage of school textbooks, instructional materials, library books, equipment, or supplies, shall make restitution to the school, including the payment by the student or the student’s parents or guardians, of the actual replacement costs. Any fees collected pursuant to this subsection shall be deposited into the textbook and instructional materials fee special account established in 302A-

(b) No student shall be required to make restitution unless the student and the student’s parents or guardians have been notified and have been given an opportunity to be heard before the principal of the school on the charge that the student was responsible for the loss, destruction, breakage, or damage of school textbooks, instructional materials, library books, equipment, or supplies.

(c) If the principal, upon a hearing on the charge, has reasonable cause to believe that the student is responsible for the loss, destruction, breakage, or damage of school textbooks, instructional materials, library books, equipment, or supplies, the principal shall design a restitution program that shall be submitted to the student and the student’s parents or guardians for agreement in writing.

If restitution is made in this fashion, then no information about the charge, the hearing, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the student and student's parents or guardians do not agree with the determination made by the principal, the principal shall report the determination and the findings made by the principal and transfer all records and documents regarding the investigation to the complex area superintendent for any further action.

(d) Each school shall make available a copy of the current list of textbooks and instructional materials upon the request of a student or a parent or guardian of a student attending the school. The list shall be available not later than the tenth day of class in each school year.

(e) Notwithstanding any other provisions in this section to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this section shall limit the right of the State to bring any action against any person to recover the damages.”

SECTION 6. Section 302A-1146, Hawaii Revised Statutes, is amended to read as follows:

~~“[§302A-1146] Schools [not to sell]; merchandise[, etc]. It shall be unlawful for any public school, without the written permission of the department, to operate stores or to sell merchandise, with the following exceptions: school lunches, milk, ice cream, candy, [things] and products made or grown at the school as part of the educational program[, and in cases where classroom efficiency, uniformity, or standardization of particular supplies is essential, textbooks, equipment, and necessary school supplies and equipment, may be sold by any school]. The department, with the advice of the comptroller, shall adopt rules in conformance with chapter 91 necessary for the purposes of this section.”~~

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 2004.

(Approved July 13, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.