

Economic Analysis of HB18-1252

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HB18-1252 creates the offense of unlawful sale of academic materials used for submission to state institutions of higher education. The offense would be a class 3 misdemeanor, and is an entirely new offense that does not replace an existing similar offense currently in existence. Theoretically, by creating this offense and increasing the penalty on offenders, the bill would discourage cheating and would thereby improve the legitimacy of grades and degrees awarded by institutions of higher education in the state. This paper examines the credibility of this goal and potential success of achieving it.

Specifically, this paper seeks to determine whether the bill aims to correct an existing market inefficiency that would justify government intervention. Furthermore, this paper will consider the economic effectiveness of creating the offense and will examine the costs of prosecuting the offense, the effects of criminalizing academic cheating, and determine if potential consequences are reasonable. Ultimately, this paper finds little evidence to support proposed government intervention in this instance, therefore not supporting HB18-1252.

The government should only intervene in imperfect markets in instances where it can enhance efficiency. In this case, the market inefficiency comes from asymmetrical information between students and future employers. If in Colorado academic cheating was thought to be prevalent, it could be suggested that undeserved grades were achieved often enough to make a significant number of the degrees from institutions of higher education also undeserved.

This would make the market signal of a degree less trustworthy, and could hurt the ability of all Colorado state graduates to find employment. The native labor demanded by companies would decrease. Companies could start looking to other states labor supply to fill jobs which would previously have been filled by native graduates.

This trend would create a secondary effect of fewer prospective students applying Colorado state institutions of higher education as they see the employability of graduates decline.

Theoretically, rampant cheating would hurt the reputation of institutions and reduce the credibility of alumni, which would lead to negative effects for both students and the institutions. Government intervention in this case aims to reduce the likelihood of cheating by increasing the possible consequences, which would improve the efficiency of the market signal of a degree.

While this proposed measure would be the first of its kind in Colorado to make academic cheating illegal, it is not the first measure to attempt to limit cheating at institutions of higher education. According to the Colorado Department of Higher Education, there are currently 94 non-profit institutions of higher education in the state. An examination of each of the websites for these institutions, undertaken for the purposes of this analysis found that each institution has a student handbook that includes either a student code of conduct, an honor code or a disciplinary outline that all explicitly delineate consequences of cheating. In many cases, the consequences include failure of assignments, failure of courses, academic suspension, or expulsion.

Additionally, a student found guilty of academic cheating often has their transcript marked permanently. This makes transferring institutions or applying to graduate school more problematic (Carpenter).

Adopting the proposal would make sense if these sanctions were not severe enough to curb cheating in academics, but this is not the case. According to a report by CBS, the University of Colorado, Colorado State University and Denver University saw cheating cases equal to about 0.95% of their student body in 2013 (Ackerman). The report asserts that reported cheating actually increased at each of these institutions in recent years, but still finds only a few hundred cases at institutions with enrollments approaching 30,000. This is attributed to an increased crackdown and not to an increase

in cheating instances, which implies that institutions are improved at finding and disciplining offenders.

Implementing successful legal sanctions would also be difficult. Part of the issue with prosecuting cases is that courts have a much higher burden of proof than an institution does. Courts would have to determine that defendants cheated beyond reasonable doubt, which is difficult in this area.

Additionally, the scope of this bill only affects instances where students pay for assistance or assignments. Institutions can rely on testimony from students and expert opinion to make educated judgments, but they only need to decide if guilt is likely or not. The courts would have no grounds to punish any students who cheated without selling or offering to sell assignments or other assistance. However, penalties in place at all institutions exist for each type of cheating including selling or offering to sell assignments, meaning that this bill's narrow scope is not mitigating an area of market failure previously unaddressed.

If passed, the bill would make the sale of academic materials a class 3 misdemeanor. This means that a judge could choose to sentence offenders to between zero and six months in jail, or to impose a fine of \$50-\$750. While jail time is much more extreme punishment and may deter students from cheating, it is hard to imagine many judges sentencing students to jail time when they have the option to fine them or impose probation instead. Judges evaluate accountability, skill development to help avoid future offenses, and community protection when sentencing offenders (Spohn). Since students who cheat academically pose little threat to society and because extended jail time would greatly hamper their skill development, the most likely sentencing would be to fine the offenders.

While the legislation aims to decrease cheating in academia, it succeeds in punishing offenders for the rest of their lives, regardless of sentencing. Disciplining students who cheat

academically by establishing criminal records and exposing them to pitfalls of the justice system is a disproportionately harsh and ultimately superfluous response considering that academic sanctions are available. The process is financially costly, the intended purpose is redundant, and the secondary consequences are persistently detrimental to both the students and society.

Even if none of the offenders were sentenced to jail time, the cost to the state of a public defender is estimated by the fiscal note at \$440 per case, wiping out a large portion of the fines collected in these cases. This means that the state will be generating very little revenue from fines and will still be responsible for the increased costs of administration, processing, prosecution by district attorneys, and the loss of time and the opportunity cost of working on these cases instead of others.

Criminal records last for much longer than the sentences do and influence career job prospects, educational levels and mental health of individuals as well. A study by the Quarterly Journal of Economics found that “incarceration for [students] could be very disruptive, greatly reducing the likelihood of ever returning to school and, for those who do return, significantly increasing the likelihood of being classified as having an emotional or behavioral disorder” (Aizer).

Furthermore, even for offenders who are not incarcerated, a petty offense often makes success in the future more difficult. “A petty conviction can affect eligibility for professional licenses, child custody, food stamps, student loans, and health care or lead to deportation” (Natapoff). The path to economic success and stability hinges on many of these things that a minor conviction can jeopardize.

The proposed act would only be effective if it discourages students from cheating. It is initially unclear if it will. The potential failure of classes, suspension from school or

expulsion can cost students a significant amount already and are likely a large deterrent. According to a study using Department of Education tuition data, the average cost of a single credit hour at a four-year public college was found to be \$325. At a two-year public college, the cost is \$135 and at a four-year private college the cost is \$1,039. This means that failing a three-credit course due to cheating could cost a student anywhere from \$405 to \$3,117 in just tuition and fees (Kirkham).

Additionally, since the bill works as intended only if students are aware of the new legislation, there is a reliance on students to know that this new law would be created. If students are unaware of the proposed additional consequences of academic cheating, then students will not be dissuaded from cheating and the state will be successful only in creating more cases to litigate. This would increase the number of criminal records, hurt the reputation of schools publicly, and make defense attorneys and district attorneys be responsible for processing and prosecuting more cases.

The bill correctly identifies a market failure where asymmetrical information between student and employer contributes to an inefficiency. However, the bill corrects this failure in an impractical and short-sighted way that does not do enough to change the mechanisms of deterring cheating and instead only adds to the consequences in permanent and detrimental ways that expand outside the academic sphere and follow offenders for the rest of their lives. The court system in the state does not need more to focus on and public defenders do not need a heavier workload. Most importantly Colorado does not need more citizens hamstrung by misdemeanor offenses that plague them. The positives of this bill are greatly outweighed by the negatives of it, and therefore HB18-1252 should not be supported.

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