

By: Thompson of Brazoria

H.B. No. 2487

A BILL TO BE ENTITLED

AN ACT

relating to the possession or use of marihuana or e-cigarettes on or near public school property or at certain school events; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 37.006, Education Code, is amended by amending Subsection (a) and adding Subsection (d-1) to read as follows:

(a) A student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2) commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(i) [~~marihuana or~~] a controlled substance,
as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
Section 801 et seq.; or

(ii) a dangerous drug, as defined by
Chapter 483, Health and Safety Code;

(C-1) sells, gives, or delivers marihuana to
another person;

(D) sells, gives, or delivers to another person
an alcoholic beverage, as defined by Section 1.04, Alcoholic
Beverage Code, commits a serious act or offense while under the
influence of alcohol, or possesses, uses, or is under the influence
of an alcoholic beverage;

(E) engages in conduct that contains the elements
of an offense relating to an abusable volatile chemical under
Sections 485.031 through 485.034, Health and Safety Code;

(F) engages in conduct that contains the elements
of the offense of public lewdness under Section 21.07, Penal Code,
or indecent exposure under Section 21.08, Penal Code; or

(G) engages in conduct that contains the elements
of the offense of harassment under Section 42.07(a)(1), (2), (3),
or (7), Penal Code, against an employee of the school district.

(d-1) In addition to Subsections (a), (b), (c), and (d), a
student may be removed from class and placed in a disciplinary
alternative education program under Section 37.008 if the student
possesses, uses, or is under the influence of marihuana on or within
300 feet of school property, as measured from any point on the
school's real property boundary line, or while attending a

school-sponsored or school-related activity on or off of school property. A school district shall require a student who engages in conduct described by this subsection, not later than 30 days after the date the conduct occurs, to complete an agency-approved drug and alcohol awareness program, which may be offered in-person or online.

SECTION 2. Section 38.006, Education Code, is amended by adding Subsection (c) to read as follows:

(c) If a school administrator, school resource officer, or school district peace officer observes the use or possession of an e-cigarette by a student on school property or at a school-related or school-sanctioned activity on or off school property, the administrator or officer may:

(1) confiscate and dispose of the e-cigarette; and

(2) notify the appropriate local law enforcement agency of the student's conduct constituting an offense under Section 38.0065 of this code, Section 161.252, Health and Safety Code, or Section 48.01, Penal Code.

SECTION 3. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.0065 to read as follows:

Sec. 38.0065. POSSESSION OF FIVE OR MORE E-CIGARETTES ON SCHOOL PROPERTY; CRIMINAL OFFENSE. (a) In this section, "e-cigarette" has the meaning assigned by Section 161.081, Health and Safety Code.

(b) A person commits an offense if the person possesses five or more e-cigarettes on school property or at a school-related or school-sanctioned activity on or off school property.

1 (c) An offense under this section is a Class B misdemeanor.

2 SECTION 4. Not later than October 1, 2023, the Texas
3 Education Agency shall approve one or more drug or alcohol
4 awareness programs for purposes of Section 37.006(d-1), Education
5 Code, as added by this Act.

6 SECTION 5. The change in law made by this Act applies only
7 to an offense committed on or after the effective date of this Act.
8 An offense committed before the effective date of this Act is
9 governed by the law in effect on the date the offense was committed,
10 and the former law is continued in effect for that purpose. For
11 purposes of this section, an offense was committed before the
12 effective date of this Act if any element of the offense occurred
13 before that date.

14 SECTION 6. This Act takes effect September 1, 2023.