

By: Thompson of Brazoria

H. B. No. 2487

A BILL TO BE ENTITLED

# 1 AN ACT

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

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

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

9                   (a) A student shall be removed from class and placed in a  
10 disciplinary alternative education program as provided by Section  
11 37.008 if the student:

12 (1) engages in conduct involving a public school that  
13 contains the elements of the offense of false alarm or report under  
14 Section [42.06](#), Penal Code, or terroristic threat under Section  
15 [22.07](#), Penal Code; or

20 (A) engages in conduct punishable as a felony;

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

23 (C) sells, gives, or delivers to another person

24 or possesses or uses or is under the influence of:

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

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

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

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

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

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

22                   (d-1) In addition to Subsections (a), (b), (c), and (d), a  
23 student may be removed from class and placed in a disciplinary  
24 alternative education program under Section **37.008** if the student  
25 possesses, uses, or is under the influence of marihuana on or within  
26 300 feet of school property, as measured from any point on the  
27 school's real property boundary line, or while attending a

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

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

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

14 (1) confiscate and dispose of the e-cigarette; and  
15 (2) notify the appropriate local law enforcement  
16 agency of the student's conduct constituting an offense under  
17 Section 38.0065 of this code, Section 161.252, Health and Safety  
18 Code, or Section 48.01, Penal Code.

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

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

25 (b) A person commits an offense if the person possesses five  
26 or more e-cigarettes on school property or at a school-related or  
27 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.