

AN ACT

relating to the possession, use, or delivery of marihuana or e-cigarettes on or near public school property or at certain school events.

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

SECTION 1. Section 37.006(a), Education Code, is amended to read as follows:

(a) Subject to the requirements of Section 37.009(a), 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:

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., excluding marihuana, as defined by Section
4 481.002, Health and Safety Code, or tetrahydrocannabinol, as
5 defined by rule adopted under Section 481.003 of that code; or

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

8 (C-1) possesses, uses, or is under the influence
9 of, or sells, gives, or delivers to another person marihuana, as
10 defined by Section 481.002, Health and Safety Code, or
11 tetrahydrocannabinol, as defined by rule adopted under Section
12 481.003 of that code;

13 (C-2) possesses, uses, sells, gives, or delivers
14 to another person an e-cigarette, as defined by Section 161.081,
15 Health and Safety Code;

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

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

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

27 (G) engages in conduct that contains the elements

1 of the offense of harassment under Section 42.07(a)(1), (2), (3),
2 or (7), Penal Code, against an employee of the school district.

3 SECTION 2. Section 37.007(a), Education Code, is amended to
4 read as follows:

5 (a) Except as provided by Subsection (k) and subject to the
6 requirements of Section 37.009(a), a student shall be expelled from
7 a school if the student, on school property or while attending a
8 school-sponsored or school-related activity on or off of school
9 property:

10 (1) engages in conduct that contains the elements of
11 the offense of unlawfully carrying weapons under Section 46.02,
12 Penal Code, or elements of an offense relating to prohibited
13 weapons under Section 46.05, Penal Code;

14 (2) engages in conduct that contains the elements of
15 the offense of:

16 (A) aggravated assault under Section 22.02,
17 Penal Code, sexual assault under Section 22.011, Penal Code, or
18 aggravated sexual assault under Section 22.021, Penal Code;

19 (B) arson under Section 28.02, Penal Code;

20 (C) murder under Section 19.02, Penal Code,
21 capital murder under Section 19.03, Penal Code, or criminal
22 attempt, under Section 15.01, Penal Code, to commit murder or
23 capital murder;

24 (D) indecency with a child under Section 21.11,
25 Penal Code;

26 (E) aggravated kidnapping under Section 20.04,
27 Penal Code;

1 (F) aggravated robbery under Section 29.03,
2 Penal Code;

3 (G) manslaughter under Section 19.04, Penal
4 Code;

5 (H) criminally negligent homicide under Section
6 19.05, Penal Code; or

7 (I) continuous sexual abuse of young child or
8 disabled individual under Section 21.02, Penal Code; or

9 (3) engages in conduct specified by Section
10 37.006(a)(2)(C) [~~or (D)~~], if the conduct is punishable as a felony.

11 SECTION 3. Section 37.008(k), Education Code, is amended to
12 read as follows:

13 (k) A program of educational and support services may be
14 provided to a student and the student's parents when the offense
15 involves drugs, e-cigarettes, or alcohol as specified under Section
16 37.006 or 37.007. A disciplinary alternative education program
17 that provides chemical dependency treatment services must be
18 licensed under Chapter 464, Health and Safety Code.

19 SECTION 4. Section 37.009, Education Code, is amended by
20 adding Subsections (a-1) and (a-2) to read as follows:

21 (a-1) If a disciplinary alternative education program is at
22 capacity at the time a campus behavior coordinator is deciding
23 placement under Subsection (a) for a student who engaged in conduct
24 described under Section 37.006(a)(2)(C-1), (C-2), (D), or (E), the
25 student shall be:

26 (1) placed in in-school suspension; and

27 (2) if a position becomes available in the program

1 before the expiration of the period of the placement, transferred
2 to the program for the remainder of the period.

3 (a-2) If a disciplinary alternative education program is at
4 capacity at the time a campus behavior coordinator is deciding
5 placement under Subsection (a) for a student who engaged in conduct
6 described under Section 37.007 that constitutes violent conduct, as
7 defined by commissioner rule, a student who has been placed in the
8 program for conduct described under Section 37.006(a)(2)(C-1),
9 (C-2), (D), or (E):

10 (1) may be removed from the program and placed in
11 in-school suspension to make a position in the program available
12 for the student who engaged in violent conduct; and

13 (2) if removed from the program under Subdivision (1)
14 and a position in the program becomes available before the
15 expiration of the period of the placement, shall be returned to the
16 program for the remainder of the period.

17 SECTION 5. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 114 was passed by the House on April 25, 2023, by the following vote: Yeas 145, Nays 2, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 114 on May 26, 2023, by the following vote: Yeas 136, Nays 6, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 114 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor