

By: Creighton

S.B. No. 2428

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the removal of a public school student from the
3 classroom for the possession or use of an e-cigarette.

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

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

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

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

15 (2) subject to Subsection (a-1), commits the following
16 on or within 300 feet of school property, as measured from any point
17 on the school's real property boundary line, or while attending a
18 school-sponsored or school-related activity on or off of school
19 property:

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, as
2 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;

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

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

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

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

20 (a-1) Notwithstanding Subsection (a), a student may but is
21 not required to be removed from class and placed in a disciplinary
22 alternative education program as provided by Section 37.008 for
23 possession or use of an e-cigarette, as defined by Section 161.081,
24 Health and Safety Code, if school personnel cannot readily
25 determine that the e-cigarette contains a substance described by
26 Subsection (a)(2)(C).

27 SECTION 2. This Act applies beginning with the 2023-2024

1 school year.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2023.