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

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

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

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

(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.

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

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

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

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

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

(B) arson under Section 28.02, Penal Code;

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

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

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

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

(G) manslaughter under Section 19.04, Penal Code;

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

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

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

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

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

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

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

(1) placed in in-school suspension; and

(2) if a position becomes available in the program
before the expiration of the period of the placement, transferred
to the program for the remainder of the period.

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

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

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

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

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.

APPROVED: ______________________

Date

Governor