

SENATE AMENDMENTS

2nd Printing

By: Thompson of Brazoria

H.B. No. 114

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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, possession, or
11 delivery of an e-cigarette by a student on school property or at a
12 school-related or school-sanctioned activity on or off school
13 property, the 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 161.252, Health and Safety Code, or Section 48.01, Penal
18 Code.

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

23 SECTION 4. This Act takes effect September 1, 2023.

ADOPTED

MAY 24 2023

Latey Law
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

Chris Farny

1 Amend H.B. 114 (senate committee report) as follows:

2 (1) In SECTION 1 of the bill, strike the recital to amended
3 Section 37.006, Education Code (page 1, lines 27 through 29) and
4 substitute "Section 37.006(a), Education Code, is amended to read
5 as follows:".

6 (2) In SECTION 1 of the bill, in amended Section 37.006(a),
7 Education Code (page 1, line 30), strike "A" and substitute
8 "Subject to the requirements of Section 37.009(a), a [A]".

9 (3) In SECTION 1 of the bill, in amended Section 37.006(a)(2),
10 Education Code (page 1, lines 44 through 52), strike Paragraphs
11 (C) and (C-1) and substitute the following:

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

14 (i) ~~[marihuana or]~~ a controlled substance, as
15 defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
16 Section 801 et seq., excluding marihuana, as defined by Section
17 481.002, Health and Safety Code, or tetrahydrocannabinol, as
18 defined by rule adopted under Section 481.003 of that code; or

19 (ii) a dangerous drug, as defined by Chapter
20 483, Health and Safety Code;

21 (C-1) possesses, uses, or is under the influence
22 of, or sells, gives, or delivers to another person marihuana, as
23 defined by Section 481.002, Health and Safety Code, or
24 tetrahydrocannabinol, as defined by rule adopted under Section
25 481.003 of that code;

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

4 (4) In SECTION 1 of the bill, amending Section 37.006,
5 Education Code (page 2, lines 6 through 17), strike Subsection (d-
6 1).

7 (5) Strike SECTIONS 2 and 3 of the bill (page 2, lines 18
8 through 33), substitute the following appropriately numbered
9 SECTIONS, and renumber subsequent SECTIONS of the bill
10 accordingly:

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

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

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

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

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

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

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

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

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

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

11 (G) manslaughter under Section 19.04, Penal Code;

12 (H) criminally negligent homicide under Section
13 19.05, Penal Code; or

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

16 (3) engages in conduct specified by Section
17 37.006(a)(2)(C) [~~or (D)~~], if the conduct is punishable as a felony.

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

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

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

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

- 6 (1) placed in in-school suspension; and
7 (2) if a position becomes available in the program
8 before the expiration of the period of the placement, transferred
9 to the program for the remainder of the period.

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

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 25, 2023

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB114 by Thompson, Ed (Relating to the possession, use, or delivery of marihuana or e-cigarettes on or near public school property or at certain school events.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

School districts and open-enrollment charter schools would be required to update their student code of conduct as well as any of their local documentation to reference the new disciplinary action and the disciplinary length difference reason codes. However, no significant fiscal implication to units of local government is anticipated.

Source Agencies: 701 Texas Education Agency

LBB Staff: JMc, CMA, KSk

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 9, 2023

TO: Honorable Brandon Creighton, Chair, Senate Committee on Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB114** by Thompson, Ed (Relating to the possession, use, or delivery of marihuana or e-cigarettes on or near public school property or at certain school events.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

While it is assumed that the impact to state and local juvenile correctional resources would not be significant, expanding the conduct for which a student may be referred to a law enforcement agency may result in additional referrals to a juvenile probation department.

Source Agencies: 405 Department of Public Safety, 701 Texas Education Agency

LBB Staff: JMc, KSk, SL, ENA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 14, 2023

TO: Honorable Brad Buckley, Chair, House Committee on Public Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB114 by Thompson, Ed (relating to the possession, use, or delivery of marihuana or e-cigarettes on or near public school property or at certain school events.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

It is assumed that any costs associated with the bill could be absorbed using existing resources.

Local Government Impact

While it is assumed that the impact to state and local juvenile correctional resources would not be significant, expanding the conduct for which a student may be referred to a law enforcement agency may result in additional referrals to a juvenile probation department.

Source Agencies: 405 Department of Public Safety, 701 Texas Education Agency

LBB Staff: JMc, KSk, SL, ENA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 3, 2023

TO: Honorable Brad Buckley, Chair, House Committee on Public Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB114 by Thompson, Ed (Relating to the possession of e-cigarettes on public school property or at certain school events; creating a criminal offense.), **As Introduced**

No fiscal implication to the State is anticipated.

Local Government Impact

While it is assumed that the impact to state and local juvenile correctional resources would not be significant, creating a new offense may result in additional referrals to a juvenile probation department.

Source Agencies: 405 Department of Public Safety, 644 Juvenile Justice Department, 701 Texas Education Agency

LBB Staff: JMc, KSk, SL, ENA