

- SUBJECT:** Revising requirements related to student marihuana or e-cigarette use
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 11 ayes — Buckley, Allen, Allison, Cunningham, Cody Harris, Harrison, Hefner, K. King, Longoria, Schaefer, Talarico
- 0 nays
- 2 absent — Dutton, Hinojosa
- WITNESSES:** For — Peter Perez, Elgin ISD; Rory Gesch (*Registered, but did not testify*: James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers' Union; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Raif Calvert, Texas Association of School Boards; Suzi Kennon, Texas PTA; AJ Louderback, Texas Sheriffs Regional Alliance; Mike Meroney)
- Against — (*Registered, but did not testify*: Cynthia Van Maanen, Travis County Democratic Party; and 6 individuals)
- On — Charlie Gagen, American Lung Association (*Registered, but did not testify*: Eric Marin, TEA; Amy Miller, Texas Juvenile Justice Department)
- BACKGROUND:** Education Code sec. 37.006 requires students to be removed from class and placed in a disciplinary alternative education program for possessing, using, or being under the influence of marihuana within 300 feet of school property or while attending a school activity.
- DIGEST:** HB 114 would amend Education Code sec. 37.006 to make optional the removal of a student from class and placement within a disciplinary alternative education program for a student who possessed, used, or was under the influence of marihuana on or within 300 feet of school property or while attending a school activity.

Students who possessed, used, or were under the influence of marihuana within 300 feet of school property or while attending a school activity would be required to complete a drug and alcohol awareness program approved by the Texas Education Agency (TEA) within 30 days after the conduct occurred. The program could be offered in-person or online.

The bill would allow school administrators, school resource officers, or school district peace officers who observed the use, possession, or delivery of an e-cigarette by a student on school property or at a school activity to confiscate and dispose of the e-cigarette and notify the appropriate local law enforcement agency of the student's conduct constituting an offense of:

- possession of a burning tobacco product, smoking tobacco, or operating an e-cigarette in a facility of a public primary or secondary school, which would be punishable as a class C misdemeanor (maximum fine of \$500); or
- possession, purchase, consumption, or receipt of cigarettes, e-cigarettes, or tobacco products by minors, which would be punishable as a fine not to exceed \$100.

The bill would require TEA to approve one or more drug or alcohol awareness programs by October 1, 2023.

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

HB 114 would remove the current requirement to send students caught with marihuana at school to disciplinary alternative education programs, including county juvenile justice alternative education programs. Currently, these programs are at or over capacity with taxpayer-funded resources being used for non-violent student offenders. When these programs are at capacity, there is no space available for potentially violent youth who need those services and present a more serious danger to their schools and communities.

The bill would provide administrators with the ability to decide, on a case-

by-case basis, how they wished to proceed in situations where students were in possession of or using marihuana. The flexibility to keep certain students in the classroom and address these violations through other types of disciplinary measures is important for schools and students, since mandatory expulsion and transfer could impact a student's academic and extracurricular progress.

The bill's provisions on notifying law enforcement in certain cases would provide school administrators with clarity about their ability to do so.

**CRITICS
SAY:**

Authorizing schools to report student offenses related to e-cigarettes to law enforcement could result in more student involvement in the justice system for relatively minor offenses.