

- SUBJECT:** Discipline of students who voluntarily surrender prohibited items
- COMMITTEE:** Public Education — favorable, without amendment
- VOTE:** 8 ayes — Grusendorf, Branch, Delisi, Dutton, Eissler, Hochberg, B. Keffer, Mowery
- 0 nays
- 1 absent — Oliveira
- WITNESSES:** For — Tim Bacon, Texas State Teachers Association; Jo Hannah Whitsett, Association of Texas Professional Educators
- Against — None
- On — Ramiro Canales, Texas Association of School Boards, Texas Association of School Administrators; Dwight Harris, Texas Federation of Teachers.
- BACKGROUND:** Education Code, ch. 37, requires the board of trustees of an independent school district to adopt a student code of conduct for the district. The student code of conduct must specify the conditions under which a student may be removed from a classroom, placed in a disciplinary alternative education program, suspended, or expelled and must provide guidelines for setting the length of term for these offenses. Each school year, a school district must provide parents with notice of and information about the student code of conduct.
- A student must be expelled from school if the student uses, exhibits, or possesses a firearm, illegal knife, club, or weapon on school property or while attending a school-sponsored or school-related activity on or off of school property. A student may be expelled if the student sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of marihuana or a controlled substance, a dangerous drug, or an alcoholic beverage.

Penal Code, sec. 6.03, provides definitions of culpable mental states concerning a person's conduct. "Knowingly" means being aware of the nature of one's conduct or that certain circumstances exist.

DIGEST:

HB 625 would amend Education Code, ch. 37, to require the student code of conduct to provide guidelines under which students who unknowingly brought to school prohibited items, including weapons, drugs, or alcohol, could avoid disciplinary action by turning over the items to school officials. The school official would provide written notice of the incident to the student's parent.

The bill also would amend provisions on expulsion for possession of weapons, drugs or alcohol to specify that a student would have to knowingly possess these items for expulsion to be required.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. The bill would apply beginning with the 2005-06 school year.

**SUPPORTERS
SAY:**

HB 625 would give principals more flexibility in enforcing the state's zero tolerance laws on possession of weapons, drugs, and alcohol in schools by specifying that the behavior would have to be conducted knowingly and by authorizing school districts to establish procedures for when a student unknowingly brought a prohibited item to school.

Since these zero-tolerance laws were enacted in 1997, reports have occurred of students being expelled for such actions as accidentally bringing a paring knife to school even if the student had no intention of using it. Principals have no discretion under current law to respond to individual situations in which expelling a student may not be warranted. As a result, students end up in alternative education programs that often do not offer the same quality of education as a regular classroom and even excellent students have difficulty maintaining their grades. The bill would not limit a principal's authority to expel students who intentionally brought weapons to school.

The term "knowingly" is clearly defined in the Penal Code, so principals would not have total discretion or be able to exercise favoritism in determining whether a student's behavior met these standards.

OPPONENTS
SAY:

The bill would give principals too much discretion in deciding whether a student knowingly committed an offense. This should be handled by courts rather than principals, who may know the offenders and be inclined toward leniency or stringency depending on the particular student involved.

NOTES:

The companion bill, SB 970 by West, has been referred to the Senate Education Committee.

A related bill, HB 603 by Eissler, which would add knowingly, intentionally, or recklessly as required states of mind for students carrying a prohibited weapon, passed the House on April 27 and has been referred to the Senate Education Committee.