

SUBJECT: Authority to impose criminal penalty for violation of school district policy

COMMITTEE: Public Education — committee substitute recommended

VOTE: 5 ayes — Eissler, Hochberg, Mowery, Olivo, Patrick

0 nays

4 absent — Zedler, Branch, Delisi, Dutton

WITNESSES: For —Bill Hawkins, Harris County District Attorney's Office; (*Registered, but did not testify*: Will Harrell, ACLU, NAACP, and LULAC; Ray Martinez, Texas Municipal Courts Association)

Against —None

On —Kay Lambert, Advocacy Inc.; Jeff Ward, Texas Association of School District Police; (*Registered, but did not testify*: Shannon Edmonds, Texas District and County Attorney Association; Marc Levin, Texas Public Policy Foundation)

BACKGROUND: Education Code, ch. 37, subch. D governs the discipline and penalties associated with the protection of school buildings and grounds.

Sec. 37.102 authorizes a school district to adopt rules for the safety and welfare of students, employees, property, and other considerations deemed necessary to carry out the subchapter and the governance of the district. Laws or ordinances regulating traffic on a public highway or street apply to the operation of vehicles on school property. Sec. 37.102(c) states that a person found in violation under the subchapter or any rule adopted under the subchapter commits an offense. An offense under sec. 37.102 is a class C misdemeanor (maximum fine of \$500).

School districts have made wide application of sec. 37.102 to punish infractions including tardiness and gum chewing, and some districts have prosecuted students for these infractions. Students who are found guilty receive a criminal record for breaking a school policy.

HB 278  
House Research Organization  
page 2

**DIGEST:** CSHB 278 would amend sec. 37.102(c) to limit the application of a criminal penalty under subchapter D to the violation of rules providing for the operation and parking of vehicles on school property.

The bill would take effect September 1, 2007.

**NOTES:** The original bill would have repealed Education Code, sec. 37.102(c).

A similar bill, SB 443 by Hinojosa, which passed the Senate by 31-0 on May 1, would repeal Education Code, sec. 37.102(c).