

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2428
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Education
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The U.S. Surgeon General has declared youth e-cigarette usage a health epidemic, and Texas schools are on the front lines. The increasing prevalence and accessibility of e-cigarettes, including e-cigarettes containing marijuana or other controlled substances, has greatly challenged the ability of school staff and administrators to provide a safe and healthy learning environment.

Current law requires the placement of a student in a disciplinary alternative education program (DAEP) if they sell, give, possess, or use marijuana or a dangerous drug at school. This includes e-cigarettes containing these controlled substances.

School districts have reported DAEP capacity issues due to students caught in possession of e-cigarettes, often leaving districts without space for students that should be in the program for more serious violent offenses.

S.B. 2428 mandates DAEP placement of a student found possessing or using an e-cigarette. However, a student already in this program for possession or use of an e-cigarette may be temporarily removed from DAEP and placed in in-school suspension to make room for a student who has committed a violent offense.

S.B. 2428 also requires the Texas Education Agency to create a vaping/substance abuse education program, to be completed in-person or online. Students caught in possession of an e-cigarette are required to complete this course and pass an end-of-course assessment before they can be allowed back into the classroom.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 2428 amends current law relating to the removal of a public school student from the classroom for possession or use of an e-cigarette.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 37.006, Education Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires a student to be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 (Disciplinary Alternative Education Programs) if the student meets certain criteria, including committing certain actions, subject to Subsections (a-1) and (a-2), 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-1) Requires a student, if a disciplinary alternative education program is at capacity at the time a student is required to be removed from class and placed in the program under Subsection (a) for possession or use of an e-cigarette, as defined by Section 161.081 (Definitions), Health and Safety Code, and a school personnel cannot readily determine that the e-cigarette contains a substance described by Subsection (a)(2)(C) (relating to requiring a student be removed if the student sells, gives, or delivers to another person or possesses or uses or is under the influence of certain substances), to be placed in in-school suspension and transferred to the program for the remainder of the period if a position becomes available in the program before the expiration of the period of placement.

(a-2) Provides that a student who has been removed to the program for possession or use of an e-cigarette, as defined by Section 161.081, Health and Safety Code, if a disciplinary alternative education program is at capacity at the time a student is required to be removed from class and placed in a program under Subsection (a) for engaging in violent conduct, as defined by commissioner of education rule:

(1) is authorized to 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) is required to be returned to the program for the remainder of the period 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.

SECTION 2. Amends Subchapter A, Chapter 37, Education Code, by adding Section 37.0065, as follows:

Sec. 37.0065. E-CIGARETTE EDUCATION REQUIREMENT. (a) Defines "e-cigarette."

(b) Requires the Texas Education Agency to develop a program to educate students required to be removed from class and placed in a disciplinary alternative education program or in in-school suspension under Section 37.006 (Removal for Certain Conduct) for possession or use of an e-cigarette about the risk of substance abuse and use of e-cigarettes. Provides that the program is authorized to be provided in person or online and is required to include an end-of-course assessment.

(c) Requires a student described by Subsection (b) to complete the program developed under that subsection and achieve a satisfactory score on the end-of-course assessment before the student is authorized to return to class.

SECTION 3. Provides that this Act applies beginning with the 2023–2024 school year.

SECTION 4. Effective date: upon passage or September 1, 2023.