

BILL ANALYSIS

C.S.H.B. 456
By: Gutierrez
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties describe the electronic cigarette as a vapor product device that resembles a tobacco cigarette and fully recreates the smoking experience. The parties explain that the act of inhaling an electronic cigarette triggers a vaporizing process that releases simulated smoke in the form of a vapor mist that evaporates. Many electronic cigarettes contain components such as cartridges, atomizers, and electronic batteries with small light-emitting diodes attached that resemble the lit end of a tobacco cigarette. The parties further note that the atomizer acts as a heating element that vaporizes the contents of the cartridge.

C.S.H.B. 456 seeks to include e-cigarettes among the products for which the use or possession is prohibited at school-related or school-sanctioned activities on or off school property.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 456 amends the Education Code to add smoking, using, and student possession of e-cigarettes at a school-related or school-sanctioned activity on or off school property to the conduct a school district board of trustees is required to prohibit. The bill adds a statement of whether a district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes to the statements a school district is required to publish in the student handbook and post on the district's website, if the district has a website. The bill defines "e-cigarette" as an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The bill excludes from the term a prescription medical device unrelated to the cessation of smoking but includes in the term a device regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description and a component, part, or accessory of the device, regardless of whether the component, part, or accessory is sold separately from the device.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 456 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 28.004(k), Education Code, is amended to read as follows:

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

(1) a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Section 28.002(1);

(2) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of vapor products, as defined by Section 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and

(3) a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year.

SECTION 2. Section 38.006, Education Code, is amended to read as follows:

Sec. 38.006. VAPOR PRODUCTS AND TOBACCO PRODUCTS ON SCHOOL PROPERTY. (a) In this section, "vapor product" means:

(1) an electronic cigarette or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device; or

(2) any substance used to fill or refill an electronic cigarette or other device

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 28.004(k), Education Code, is amended to read as follows:

(k) A school district shall publish in the student handbook and post on the district's Internet website, if the district has an Internet website:

(1) a statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Section 28.002(1);

(2) a statement of:

(A) the number of times during the preceding year the district's school health advisory council has met;

(B) whether the district has adopted and enforces policies to ensure that district campuses comply with agency vending machine and food service guidelines for restricting student access to vending machines; and

(C) whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined by Section 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities; and

(3) a statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year.

SECTION 2. Section 38.006, Education Code, is amended to read as follows:

Sec. 38.006. E-CIGARETTES AND TOBACCO PRODUCTS ON SCHOOL PROPERTY. (a) In this section, "e-cigarette" means

an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device.

described by Subdivision (1).

(b) The board of trustees of a school district shall:

- (1) prohibit smoking or using vapor products or tobacco products at a school-related or school-sanctioned activity on or off school property;
- (2) prohibit students from possessing vapor products or tobacco products at a school-related or school-sanctioned activity on or off school property; and
- (3) ensure that school personnel enforce the policies on school property.

SECTION 3. This Act takes effect September 1, 2015.

The term does not include a prescription medical device unrelated to the cessation of smoking. The term includes:

- (1) a device described by this subsection regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and
- (2) a component, part, or accessory of the device, regardless of whether the component, part, or accessory is sold separately from the device.

(b) The board of trustees of a school district shall:

- (1) prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property;
- (2) prohibit students from possessing e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property; and
- (3) ensure that school personnel enforce the policies on school property.

SECTION 3. Same as introduced version.