

- SUBJECT:** Prohibiting use and possession of e-cigarettes at public schools
- COMMITTEE:** Public Education — committee substitute recommended
- VOTE:** 10 ayes — Aycock, Allen, Bohac, Deshotel, Farney, Galindo, González, Huberty, K. King, VanDeaver
- 0 nays
- 1 absent — Dutton
- WITNESSES:** For — Joel Dunnington, Texas Medical Association; (*Registered, but did not testify*: Nelson Salinas, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Lindsay Gustafson, Texas Classroom Teachers Association; Colby Nichols, Texas Rural Education Association; Julie Lindley, Texas School Nurses Organization; Portia Bosse, Texas State Teachers Association; Lon Craft, TMPA)
- Against — None
- On — (*Registered, but did not testify*: Von Byer and Monica Martinez, Texas Education Agency)
- BACKGROUND:** Education Code, sec. 38.006 requires the board of trustees of a school district to prohibit smoking or using tobacco products at a school-related activity that is on or off school property and to prohibit students from possessing tobacco products at a school-related activity that is on or off school property. The board also must ensure that school personnel enforce these policies on school property.
- Education Code, sec. 28.004(k) requires a school district to publish in the student handbook and, if it has one, on the district's website a statement about whether the district has adopted and enforces policies for penalizing use of tobacco products on school campuses or at school-related activities.
- DIGEST:** CSHB 456 would require the board of trustees of a school district to

prohibit smoking or using e-cigarettes at a school-related activity that is on or off school property and to prohibit students from possessing e-cigarettes at a school-related activity that is on or off school property. The board would have to ensure that school personnel enforced these policies on school property.

E-cigarettes would be defined as an electronic cigarette or any other device that simulates smoking through a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to whomever is inhaling the device. A device would be considered an e-cigarette regardless of whether it is manufactured, distributed, or sold as an e-cigarette, as an e-cigar, as an e-pipe, or under another name or description. E-cigarettes under this bill also would include a component or accessory of the device, whether it was sold with or separately from the device. The term would not include a prescription medical device unrelated to smoking cessation.

A school district would have to publish in its handbook and, if it has one, on its website a statement about whether the district has adopted and enforced policies penalizing the use of e-cigarettes on school campuses or at school-related activities.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 456 would protect Texas children by prohibiting the use and possession of e-cigarettes on public school campuses and at school functions. More minors are using e-cigarettes, which contain dangerous chemicals, including known carcinogens. The National Youth Tobacco Survey conducted by the Centers for Disease Control and Prevention (CDC) indicated that use of e-cigarettes by U.S. high school students nationwide rose from 4.7 percent in 2011 to 10 percent in 2012. Forbidding students from having or using e-cigarettes on school grounds would help to reduce minors' access to these products.

Nobody knows the long-term effects of e-cigarettes, which are largely unregulated and have poor quality control. Batteries of e-cigarettes have

exploded in some cases. Like traditional cigarettes, e-cigarettes can contain the additive substance nicotine. CSHB 456 would deter use of these potentially dangerous and habit-forming products by children at the state's public schools.

E-cigarettes are a gateway to cigarettes and other dangerous substances. Some young people already use e-cigarettes to inhale vapors of illegal drugs, such as marijuana and synthetics. Many are dual users of cigarettes and e-cigarettes. Most adult smokers started using traditional cigarettes habitually as children, and minors who smoke traditional cigarettes are more likely to be depressed, commit suicide, and use illegal drugs. This bill could help prevent students from taking up e-cigarettes and other harmful substances.

The number of calls to poison control centers concerning e-cigarettes has skyrocketed in recent years. According to the CDC, in February 2014, poison centers received 215 calls about e-cigarette liquids containing nicotine, compared to just one call in September 2010. More than half of the calls involved children under 5. Young people likely are drawn to e-cigarettes because of the enticing flavors, such as cotton candy and marshmallow, that appeal to this market.

As tobacco use has been de-normalized, youth cigarette smoking rates have declined. The industry now is trying to normalize e-cigarettes. Although some advocacy groups tout e-cigarettes as a way to quit traditional cigarettes, the Food and Drug Administration has not approved e-cigarettes as smoking cessation products.

Sometimes state government must enact laws that are right for all Texans and their children. Local governments do not always respond quickly to issues. A state law would empower school districts to enforce an e-cigarette policy they already had adopted. Court cases on student e-cigarette use and possession on campus have surfaced recently, and this bill would give school districts leverage to prevent future lawsuits.

This bill would help protect vulnerable young people who do not always

make good choices for themselves. It would not intend to tell a school how to manage its employees.

Comprehensive research on the risks of e-cigarettes will not be available for several years, but based on current data, it is time to initiate regulatory and legislative steps to protect children and the health of future generations. Texas is one of only a handful of states that has not yet restricted e-cigarette sales to minors. CSHB 456 would be a step toward the goal shared by many to prevent youth from accessing e-cigarettes.

OPPONENTS
SAY:

CSHB 456, by imposing a statewide policy on the use and possession of e-cigarettes in public schools, would infringe on the ability of local school districts to determine the policies that are best for their communities. Although most people believe that minors should not be using e-cigarettes, local districts are in the best position to decide how to manage the issue. This bill would send a message to local communities that the state knows what is best for individual school districts.

Moreover, many local school boards already have taken the initiative to ban e-cigarettes at public schools in their districts. The state should continue to trust local school districts to make their own decisions about this issue.

The bill also is unclear about whether it would restrict the use of e-cigarettes by teachers and staff at schools or only by students. A policy that would limit use of e-cigarettes by non-students would restrict the liberties of adults and could interfere with their use of e-cigarettes as a means to quit smoking traditional cigarettes.

OTHER
OPPONENTS
SAY:

The state should be cautious about regulating products whose effects are not well known. Not enough reliable information on the risks of e-cigarettes is available at this point to determine whether their use should be restricted or banned.

NOTES:

CSHB 456 differs from the original in that the bill as filed would have regulated use and possession of “vapor products” at public schools rather

than “e-cigarettes.”

SB 96 by Hinojosa, the Senate companion bill, was passed by the Senate on March 30.