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SENATE BILL NO. 1295

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on January 17, 2019)

(Patrons Prior to Substitute—Senators Spruill and Marsden [SB 1056])

A *BILL to amend and reenact §§ 22.1-79.5 and 22.1-279.6 of the Code of Virginia, relating to public schools; tobacco products and nicotine vapor products; prohibition.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-79.5 and 22.1-279.6 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-79.5. Policy regarding tobacco and nicotine vapor products.

Each school board shall develop and implement a policy to prohibit, *at any time*, the use and distribution of ~~electronic cigarettes~~ *any tobacco product or nicotine vapor product, as those terms are defined in § 18.2-371.2, on a school bus, on school property, or at a an on-site or off-site school-sponsored activity.*

Such policy shall include (i) provisions for its enforcement among students, employees, and visitors, including the enumeration of possible sanctions or disciplinary action consistent with state or federal law, and (ii) referrals to resources to help staff and students overcome tobacco addiction.

Such policy may include procedures for effectively communicating the policy to students, their parents and families, school personnel, visitors on school premises, and local residents, groups, businesses, and other organizations served by the school. Such communication may include publishing information in student and employee handbooks, announcements at school-sponsored events, and posting conspicuous signage in buildings and on school property, including at entrances to school buildings and athletic events, in a manner and location that adequately informs students, school personnel, and visitors of the policy.

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

D. Each school board shall include in its code of student conduct policies and procedures that

60 include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the
61 standards for school board policies on bullying and the use of electronic means for purposes of bullying
62 developed by the Board pursuant to subsection A and (ii) direct the principal to notify the parent of any
63 student involved in an alleged incident of bullying of the status of any investigation within five school
64 days of the allegation of bullying.

65 Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of
66 students and are not intended to prohibit expression of religious, philosophical, or political views,
67 provided that such expression does not cause an actual, material disruption of the work of the school.

68 E. A school board may regulate the use or possession of beepers or other portable communications
69 devices and laser pointers by students on school property or attending school functions or activities and
70 establish disciplinary procedures pursuant to this article to which students violating such regulations will
71 be subject.

72 F. Nothing in this section shall be construed to require any school board to adopt policies requiring
73 or encouraging any drug testing in schools. However, a school board may, in its discretion, require or
74 encourage drug testing in accordance with the Board of Education's guidelines and model student
75 conduct policies required by subsection A and the Board's guidelines for student searches required by
76 § 22.1-279.7.

77 G. The Board of Education shall establish standards to ensure compliance with the federal Improving
78 America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with
79 § 22.1-277.07.

80 This subsection shall not be construed to diminish the authority of the Board of Education or to
81 diminish the Governor's authority to coordinate and provide policy direction on official communications
82 between the Commonwealth and the United States government.

83 H. Each school board shall include in its code of student conduct a prohibition on possessing
84 ~~electronic cigarettes~~ *any tobacco product or nicotine vapor product, as those terms are defined in*
85 *§ 18.2-371.2*, on a school bus, on school property, or at ~~a~~ *an on-site or off-site* school-sponsored
86 activity.