

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3755

By: Miller

AS INTRODUCED

An Act relating to schools; amending 70 O.S. 2011, Sections 24-101.3, as last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp. 2019, Section 24-101.3), which relates to out-of-school suspensions, 24-102, which relates to searches of pupils, 24-132, which relates to reporting students who are under the influence of certain substances, and 1210.229-3, which relates to definitions; removing references to low-point beer; amending 70 O.S. 2011, Section 24-138, which relates to written policy for reporting students under the influence of certain substances; removing references to low-point beer; removing penalty for failure to file a certain policy; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 24-101.3, as last amended by Section 1, Chapter 90, O.S.L. 2016 (70 O.S. Supp. 2019, Section 24-101.3), is amended to read as follows:

Section 24-101.3 A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a

1 policy with procedures which provides for out-of-school suspension
2 of students. The policy shall address the term of the out-of-school
3 suspension, provide an appeals process as described in subsection B
4 of this section, and provide that before a student is suspended out-
5 of-school, the school or district administration shall consider and
6 apply, if appropriate, alternative in-school placement options that
7 are not to be considered suspension, such as placement in an
8 alternative school setting, reassignment to another classroom, or
9 in-school detention. The policy shall address education for
10 students subject to the provisions of subsection D of this section
11 and whether participation in extracurricular activities shall be
12 permitted.

13 B. 1. Students suspended out-of-school for ten (10) or fewer
14 days shall have the right to appeal the decision of the
15 administration as provided in the policy required in subsection A of
16 this section. The policy shall specify whether appeals for short-
17 term suspensions as provided in this subsection shall be to a local
18 committee composed of district administrators or teachers or both,
19 or to the district board of education. Upon full investigation of
20 the matter, the committee or board shall determine the guilt or
21 innocence of the student and the reasonableness of the term of the
22 out-of-school suspension. If the policy requires appeals for short-
23 term suspensions to a committee, the policy adopted by the board
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1 may, but is not required to, provide for appeal of the committee's
2 decision to the board.

3 2. Students suspended out-of-school for more than ten (10) days
4 and students suspended pursuant to the provisions of paragraph 2 of
5 subsection C of this section may request a review of the suspension
6 with the administration of the district. If the administration does
7 not withdraw the suspension, the student shall have the right to
8 appeal the decision of the administration to the district board of
9 education. Except as otherwise provided for in paragraph 2 of
10 subsection C of this section, no out-of-school suspension shall
11 extend beyond the current semester and the succeeding semester.
12 Upon full investigation of the matter, the board shall determine the
13 guilt or innocence of the student and the reasonableness of the term
14 of the out-of-school suspension. A board of education may conduct
15 the hearing and render the final decision or may appoint a hearing
16 officer to conduct the hearing and render the final decision. The
17 decision of the district board of education or the hearing officer,
18 if applicable, shall be final.

19 C. 1. Students who are guilty of any of the following acts may
20 be suspended out-of-school by the administration of the school or
21 district:

- 22 a. violation of a school regulation,
- 23 b. possession of an intoxicating beverage, ~~low point~~
24 ~~beer, as defined by Section 163.2 of Title 37 of the~~

1 ~~Oklahoma Statutes~~, or missing or stolen property if
2 the property is reasonably suspected to have been
3 taken from a student, a school employee, or the school
4 during school activities, and

5 c. possession of a dangerous weapon or a controlled
6 dangerous substance while on or within two thousand
7 (2,000) feet of public school property, or at a school
8 event, as defined in the Uniform Controlled Dangerous
9 Substances Act. Possession of a firearm shall result
10 in out-of-school suspension as provided in paragraph 2
11 of this subsection.

12 2. Any student found in possession of a firearm while on any
13 public school property or while in any school bus or other vehicle
14 used by a public school for transportation of students or teachers
15 shall be suspended out-of-school for a period of not less than one
16 (1) year, to be determined by the district board of education
17 pursuant to the provisions of this section. The term of the
18 suspension may be modified by the district superintendent on a case-
19 by-case basis. For purposes of this paragraph the term "firearm"
20 shall mean and include all weapons as defined by 18 U.S.C., Section
21 921.

22 3. Any student in grades six through twelve found to have
23 assaulted, attempted to cause physical bodily injury, or acted in a
24 manner that could reasonably cause bodily injury to a school

1 employee or a person volunteering for a school as prohibited
2 pursuant to Section 6-146 of this title shall be suspended for the
3 remainder of the current semester and the next consecutive semester,
4 to be determined by the board of education pursuant to the
5 provisions of this section. The term of the suspension may be
6 modified by the district superintendent on a case-by-case basis.

7 D. At its discretion a school district may provide an education
8 plan for students suspended out-of-school for five (5) or fewer days
9 pursuant to the provisions of this subsection. The following
10 provisions shall apply to students who are suspended out-of-school
11 for more than five (5) days and who are guilty of acts listed in
12 subparagraphs a and b of paragraph 1 of subsection C of this
13 section. Upon the out-of-school suspension, the parent or guardian
14 of a student suspended out-of-school pursuant to the provisions of
15 this subsection shall be responsible for the provision of a
16 supervised, structured environment in which the parent or guardian
17 shall place the student and bear responsibility for monitoring the
18 student's educational progress until the student is readmitted into
19 school. The school administration shall provide the student with an
20 education plan designed for the eventual reintegration of the
21 student into school which provides only for the core units in which
22 the student is enrolled. A copy of the education plan shall also be
23 provided to the student's parent or guardian. For the purposes of
24 this section, the core units shall consist of the minimum English,

1 mathematics, science, social studies and art units required by the
2 State Board of Education for grade completion in grades kindergarten
3 through eight and for high school graduation in grades nine through
4 twelve. The plan shall set out the procedure for education and
5 shall address academic credit for work satisfactorily completed.

6 E. A student who has been suspended out-of-school from a public
7 or private school in the State of Oklahoma or another state for a
8 violent act or an act showing deliberate or reckless disregard for
9 the health or safety of faculty or other students shall not be
10 entitled to enroll in a public school of this state, and no public
11 school shall be required to enroll the student, until the terms of
12 the suspension have been met or the time of suspension has expired.

13 F. 1. No public school of this state shall be required to
14 provide education services in the regular school setting to any
15 student who has been:

- 16 a. adjudicated as a delinquent for an offense defined as
17 a violent crime in Section 571 of Title 57 of the
18 Oklahoma Statutes,
- 19 b. convicted as an adult of an offense defined as a
20 violent crime in Section 571 of Title 57 of the
21 Oklahoma Statutes,
- 22 c. who has been removed from a public or private school
23 in the State of Oklahoma or another state by
24 administrative or judicial process for a violent act

- 1 or an act showing deliberate or reckless disregard for
2 the health or safety of faculty or other students,
- 3 d. suspended as provided for in paragraph 3 of subsection
4 C of this section, or
- 5 e. has been removed from a public or private school in
6 the state or another state by administrative or
7 judicial process for an act of using electronic
8 communication, as defined in Section 24-100.3 of this
9 title, with intent to terrify, intimidate or harass,
10 or threaten to inflict injury or physical harm to
11 faculty or other students.

12 2. The school in which a student as described in paragraph 1 of
13 this subsection is subsequently enrolled may elect to not provide
14 education services in the regular school setting until the school
15 determines that the student no longer poses a threat to self, other
16 students or school district faculty or employees. Until the school
17 in which such student subsequently enrolls or re-enrolls determines
18 that the student no longer poses a threat to self, other students or
19 school district faculty or employees, the school may provide
20 education services through an alternative school setting, home-based
21 instruction, or other appropriate setting. If the school provides
22 education services to the student at a district school facility, the
23 school shall notify any student or school district faculty or
24 employee victims of the student, when known, and shall ensure that

1 the student will not be allowed in the general vicinity of or
2 contact with a victim of the student, provided the victim notifies
3 the school of the victim's desire to refrain from contact with the
4 offending student.

5 G. Students suspended out-of-school who are on an
6 individualized education plan pursuant to the Individuals with
7 Disabilities Education Act, P.L. No. 101-476, or who are subject to
8 the provisions of subsection F of this section and who are on an
9 individualized education plan shall be provided the education and
10 related services in accordance with the student's individualized
11 education plan.

12 H. A student who has been suspended for a violent offense which
13 is directed towards a classroom teacher shall not be allowed to
14 return to that teacher's classroom without the approval of that
15 teacher.

16 I. At its discretion, a school district may require a student
17 guilty of acts listed in subparagraph a or b of paragraph 1 of
18 subsection C of this section to complete intervention and prevention
19 programs as provided by designated Youth Service Agencies, if
20 available.

21 J. No school board, administrator or teacher may be held
22 civilly liable for any action taken in good faith which is
23 authorized by this section.

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SECTION 2. AMENDATORY 70 O.S. 2011, Section 24-102, is amended to read as follows:

Section 24-102. The superintendent, principal, teacher, or security personnel of any public school in the State of Oklahoma, upon reasonable suspicion, shall have the authority to detain and search or authorize the search, of any pupil or property in the possession of the pupil when said pupil is on any school premises, or while in transit under the authority of the school, or while attending any function sponsored or authorized by the school, for dangerous weapons, controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, intoxicating beverages, ~~low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes,~~ or for missing or stolen property if said property be reasonably suspected to have been taken from a pupil, a school employee or the school during school activities. The search shall be conducted by a person of the same sex as the person being searched and shall be witnessed by at least one other authorized person, said person to be of the same sex if practicable.

The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. In no event shall a strip search of a student be allowed. No student's clothing, except cold weather

1 outerwear, shall be removed prior to or during the conduct of any
2 warrantless search.

3 The superintendent, principal, teacher, or security personnel
4 searching or authorizing the search shall have authority to detain
5 the pupil to be searched and to preserve any dangerous weapons,
6 controlled dangerous substances, intoxicating beverages, ~~low-point~~
7 ~~beer~~, or missing or stolen property that might be in the pupil's
8 possession including the authority to authorize any other persons
9 they deem necessary to restrain such pupil or to preserve any
10 dangerous weapons, controlled dangerous substances, intoxicating
11 beverages, ~~low-point beer~~, or missing or stolen property. Students
12 found to be in possession of such an item shall be subject to the
13 provisions of Section 24-101.3 of this title.

14 Pupils shall not have any reasonable expectation of privacy
15 towards school administrators or teachers in the contents of a
16 school locker, desk, or other school property. School personnel
17 shall have access to school lockers, desks, and other school
18 property in order to properly supervise the welfare of pupils.
19 School lockers, desks, and other areas of school facilities may be
20 opened and examined by school officials at any time and no reason
21 shall be necessary for such search. Schools shall inform pupils in
22 the student discipline code that they have no reasonable expectation
23 of privacy rights towards school officials in school lockers, desks,
24 or other school property.

1 SECTION 3. AMENDATORY 70 O.S. 2011, Section 24-132, is
2 amended to read as follows:

3 Section 24-132. A. Any public school administrator, teacher or
4 counselor having reasonable cause to suspect that a student is under
5 the influence of ~~low-point beer as defined in Section 163.2 of Title~~
6 ~~37 of the Oklahoma Statutes,~~ alcoholic beverages as defined in
7 Section 506 of Title 37 of the Oklahoma Statutes or a controlled
8 dangerous substance as defined in Section 2-101 of Title 63 of the
9 Oklahoma Statutes or has in the student's possession ~~low-point beer,~~
10 alcoholic beverages or a controlled dangerous substance, who reports
11 such information to the appropriate school official, court
12 personnel, community substance abuse prevention and treatment
13 personnel or any law enforcement agency, pursuant to the school's
14 policy shall have immunity from any civil liability that might
15 otherwise be incurred or imposed as a result of the making of such a
16 report.

17 B. Every school authority shall immediately deliver any
18 controlled dangerous substance, removed or otherwise seized from any
19 minor or other person, to a law enforcement authority for
20 appropriate disposition.

21 SECTION 4. AMENDATORY 70 O.S. 2011, Section 24-138, is
22 amended to read as follows:

23 Section 24-138. A. Whenever it appears to any public school
24 teacher that a student may be under the influence of ~~low-point beer~~

1 ~~as defined in Section 163.2 of Title 37 of the Oklahoma Statutes,~~
2 alcoholic beverages as defined in Section 506 of Title 37 of the
3 Oklahoma Statutes or a controlled dangerous substance, as defined in
4 Section 2-101 of Title 63 of the Oklahoma Statutes, that teacher
5 shall report the matter, upon recognition, to the school principal
6 or his or her designee. The principal or designee shall immediately
7 notify the superintendent of schools or designee and a parent or
8 legal guardian of the student of the matter.

9 No officer or employee of any public school district or member
10 of any school board shall be subject to any civil liability for any
11 statement, report, or action taken in assisting or referring for
12 assistance to any medical treatment, social service agency or
13 facility or any substance abuse prevention and treatment program any
14 student reasonably believed to be abusing or incapacitated by the
15 use of ~~low point beer,~~ alcoholic beverages or a controlled dangerous
16 substance unless such assistance or referral was made in bad faith
17 or with malicious purpose. No such officer or employee of any
18 public school district, member of any school board, school or school
19 district shall be responsible for any treatment costs incurred by a
20 student as a result of any such assistance or referral to any
21 medical treatment, social service agency or facility, or substance
22 abuse prevention and treatment program.

23 B. Every school district shall have and deliver to each
24 classroom teacher a written policy that such teachers shall follow

1 if they have a student who appears to be under the influence of ~~low~~
2 ~~point beer~~, alcoholic beverages or a controlled dangerous substance
3 in their classroom. The written policy shall be developed by the
4 local superintendent of schools and adopted by the local board of
5 education. The provisions of subsection A of this section shall be
6 the minimum requirements of such written policy. ~~The written policy~~
7 ~~shall be filed with the office of the State Superintendent of Public~~
8 ~~Instruction within ninety (90) days of the effective date of this~~
9 ~~act. If such filing is not timely made, the public schools in such~~
10 ~~school district shall lose their accreditation until the written~~
11 ~~policy is filed.~~

12 SECTION 5. AMENDATORY 70 O.S. 2011, Section 1210.229-3,
13 is amended to read as follows:

14 Section 1210.229-3 For purposes of the Oklahoma Alcohol and
15 Drug Abuse Prevention and Life Skills Education Act, Section
16 1210.229-1 et seq. of this title:

17 1. "Alcohol" means any ~~low point beer as defined in Section~~
18 ~~163.2 of Title 37 of the Oklahoma Statutes or~~ alcoholic beverage as
19 defined in Section 506 of Title 37 of the Oklahoma Statutes;

20 2. "Board" means the State Board of Education;

21 3. "Department" means the State Department of Education;

22 4. "Drug" means a controlled dangerous substance as defined in
23 the Uniform Controlled Dangerous Substances Act, Section 2-101 et
24 seq. of Title 63 of the Oklahoma Statutes; and

1 5. "Life skills" includes but is not limited to fostering
2 skills in responsibility, decision making, communication, self-
3 confidence and goal setting. Life skills shall not include values
4 clarification or sex education.

5 SECTION 6. This act shall become effective November 1, 2020.

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