

COMMITTEE SUBSTITUTE

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Senate Bill No. 340

(By Senators Stollings, Kessler (Mr. President),
Unger, Klempa and Plymale)

[Originating in the Committee on Judiciary;
reported February 23, 2012.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25a, relating to providing findings by Legislature regarding concussions and head injuries; defining “interscholastic athletes”; requiring the West Virginia Secondary Schools Activities Commission to promulgate rules that address concussions and head injuries in interscholastic athletes; setting forth minimum provisions to be included in the rules; and exempting volunteer health care provider from liability in certain instances.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-2-25a, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25a. Management of concussions and head injuries in athletics at West Virginia Secondary School Activities Commission member high school or middle school.

1 (a) The Legislature finds:

2 (1) Concussions are one of the most commonly reported
3 injuries in children and adolescents who participate in sports
4 and recreational activities. The centers for disease control
5 and prevention estimates that as many as three million nine
6 hundred thousand sports-related and recreation-related
7 concussions occur in the United States each year;

8 (2) A concussion is caused by a blow or motion to the
9 head or body that causes the brain to move rapidly inside the
10 skull. The risk of catastrophic injuries or death are signifi-
11 cant when a concussion or head injury is not properly
12 evaluated and managed;

13 (3) Concussions are a type of brain injury that can range
14 from mild to severe and can disrupt the way the brain
15 normally works;

16 (4) Concussions can occur in any organized or unorga-
17 nized sport or recreational activity and can result from a fall
18 or from players colliding with each other, the ground or with
19 obstacles;

20 (5) Concussions occur with or without loss of conscious-
21 ness, but the vast majority occur without loss of conscious-
22 ness; and

23 (6) Continuing to play or practice with a concussion or
24 symptoms of head injury leaves the interscholastic athlete
25 especially vulnerable to greater injury and even death. The
26 Legislature recognizes that, despite having generally
27 recognized return to play and practice standards for concus-
28 sion and head injury, some affected interscholastic athletes
29 are prematurely returned to play or practice resulting in
30 actual or potential physical injury or death to the athletes in
31 the State of West Virginia.

32 (b) For the purposes of this section, “interscholastic
33 athlete” means any athlete who is participating in
34 interscholastic athletics at a high school or middle school

35 that is a member of the West Virginia Secondary School
36 Activities Commission.

37 (c) The West Virginia Secondary School Activities
38 Commission shall promulgate rules pursuant to section
39 twenty-five of this article that address concussions and head
40 injuries in interscholastic athletes: *Provided*, That prior to
41 state board approval and notwithstanding the exemption
42 provided in section three, article one, chapter twenty-nine-a
43 of this code, the state board shall submit the rule to the
44 Legislative Oversight Commission on Education Account-
45 ability pursuant to section nine, article three-b, chapter
46 twenty-nine-a of this code. The rules required by this section
47 shall include, but are not limited to, the following:

48 (1) Guidelines, other pertinent information and forms, as
49 appropriate, shall be developed to inform and educate
50 appropriate school administrators, coaches, interscholastic
51 athletes and their parents or guardians of the nature and risk
52 of concussion and head injury including continuing to play
53 or practice after a concussion or head injury;

54 (2) On a yearly basis, a concussion and head injury
55 information sheet shall be provided to the interscholastic

56 athlete and the athlete's parent or guardian before the
57 interscholastic athlete begins practice or competition;

58 (3) An interscholastic athlete who is suspected of sustain-
59 ing a concussion or head injury in a practice or game shall be
60 removed from competition at that time;

61 (4) An interscholastic athlete who has been removed from
62 play or practice may not return to play or practice until the
63 athlete is evaluated by a licensed health care provider
64 trained in the evaluation and management of concussions
65 and receives written clearance to return to play and practice
66 from that licensed health care provider. The health care
67 provider may be a volunteer. A volunteer who authorizes an
68 interscholastic athlete to return to play and practice is not
69 liable for civil damages resulting from any act or omission in
70 the rendering of such care, other than acts or omissions
71 constituting gross negligence or willful or wanton miscon-
72 duct. For the purposes of this section, a licensed health care
73 provider shall be a medical doctor licensed under the
74 provisions of article three, chapter thirty of this code, a
75 doctor of osteopathy licensed under the provisions of article
76 fourteen, chapter thirty of this code, an advanced registered
77 nurse practitioner licensed under the provisions of article

78 seven, chapter thirty of this code, a physicians assistant as
79 licensed under the provisions of article three, chapter thirty
80 of this code and an athletic trainer certified by the National
81 Athletic Trainers' Association Board of Certification and
82 registered under article twenty-a, chapter thirty of this code;
83 and

84 (5) A requirement that all member schools must submit
85 a report to the West Virginia Secondary School Activities
86 Commission whenever an interscholastic athlete suffers or is
87 suspected of suffering a concussion or head injury in a
88 practice or game. The report must be submitted within thirty
89 days after the interscholastic athlete receives written
90 clearance to return to play or practice from the licensed
91 health care provider. The written clearance must be included
92 with the report submitted by the member school. The West
93 Virginia Secondary School Activities Commission shall
94 compile and analyze all reports and make a determination on
95 whether the rule required by this section or equipment worn
96 by interscholastic athlete needs to be amended accordingly.