

HOUSE BILL REPORT

ESSB 5763

As Reported by House Committee On:
Education

Title: An act relating to requiring the adoption of policies for the management of concussion and head injury in youth sports.

Brief Description: Requiring the adoption of policies for the management of concussion and head injury in youth sports.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators King, McAuliffe, Brandland, Haugen, Kastama, Kauffman, Oemig, Holmquist, Berkey, Eide, Shin and Tom).

Brief History:

Committee Activity:

Education: 3/18/09, 3/24/09 [DP].

Brief Summary of Engrossed Substitute Bill

- Requires the development and dissemination of information and forms regarding the nature and risk of concussion and head injury, including risk associated with continuing to play.
- Directs school districts to require a statement of compliance with policies for the management of head injury and concussion from youth sports programs using school facilities in order for the school district to remain immune for injuries occurring during the delivery of services of the youth program on school property.
- Requires: (1) youth athletes and parents to sign and return concussion and head injury information forms on an annual basis before participating in interscholastic activity; (2) removal from practice or play of any youth suspected of sustaining a concussion or head injury; and (3) a written clearance from a licensed health care provider before the youth may return to play.
- Provides that a volunteer licensed health care provider who authorizes return to play is not liable for civil damages unless the volunteer's actions constitute gross negligence or willful or wanton misconduct.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass. Signed by 12 members: Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox, Dammeier, Hunt, Johnson, Maxwell, Orwall, Santos and Sullivan.

Staff: Cece Clynch (786-7195)

Background:

School districts are encouraged to allow private nonprofit youth programs to serve an area's youth by allowing the use of the school district facilities. To further this end, school districts are provided with limited immunity from liability for injury to youth participating in an activity offered by a private nonprofit group on school property. This immunity applies only if the private nonprofit group provides proof of accident and liability insurance to the school district before the first use of the school facilities and lasts as long as the insurance remains in effect.

A head injury prevention program is in place at the Department of Health (DOH). The DOH must provide guidelines and training information on head injuries to various entities and personnel, including educational service districts. Information regarding head injuries and concussions is also available through the U.S. Center for Disease Control.

Concussions range in severity from mild to severe but all interfere with the way the brain works. They can affect memory, judgment, reflexes, speech, balance, and coordination. Concussions do not necessarily involve a loss of consciousness. Many people have had concussions and not realized it.

Summary of Bill:

In order for a school district to maintain immunity for acts of a private nonprofit youth program, the school district must, in addition to requiring proof of insurance, also require a statement of compliance from the program with respect to policies for the management of concussion and head injury in youth sports.

Each school district must work in concert with the Washington Interscholastic Activities Association to develop guidelines and inform coaches, athletes, and parents of the dangers of concussions and head injuries. On an annual basis, prior to participating in interscholastic athletic activity, a concussion and head injury information sheet must be signed by youth athletes and their parents or guardians and returned to the school district.

A youth athlete who is suspected of sustaining a concussion or head injury must be removed from the practice or game. The athlete cannot return to play until the athlete has been evaluated by a licensed health care provider and received a written clearance to play. The licensed health care provider may be a volunteer. A volunteer who authorizes a youth to return to play is not liable for civil damages for negligent rendering of such care. This

limited immunity from liability does not extend to gross negligence or willful or wanton misconduct.

This is to be known and cited as the Zackery Lystedt law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Nothing is more important than protecting the young people. Brains of youth are still developing. Sporting events and games are not more important than a life or than quality of life. A series of concussions can cause problems down the road when the youth is older. The difference between this bill and House Bill 1824 is threefold. First, this bill provides that a parent and student must complete a head injury form just one time per year. Similar to a sports physical form, a single form per year applies to all sports in which the student participates that year. Second, this bill specifically indicates that licensed health care providers may be volunteers. Third, a volunteer is not liable unless there is gross negligence or willful or wanton behavior. The bill has been well-worked and the current language found in this Senate bill should be amended onto House Bill 1824. The Washington Interscholastic Activities Association will develop the forms and do the outreach to coaches. The information given to parents will make them aware of the signs and symptoms of head injury.

(Opposed) None.

Persons Testifying: Senator King, prime sponsor; and Lisa Thatcher, Brain Injury Association.

Persons Signed In To Testify But Not Testifying: None.