Enrolled

Senate Bill 605

By Senators Rucker, Boso, Maroney, Tarr, Baldwin, Cline, and Sypolt

[Passed March 8, 2019; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Senate Bill 605

BY SENATORS RUCKER, BOSO, MARONEY, TARR, BALDWIN, CLINE, AND SYPOLT

[Passed March 8, 2019; in effect 90 days from passage]
AN ACT to amend and reenact §18-2-25a and §18-2-25b of the Code of West Virginia, 1931, as amended, all relating to enhancing safety of athletes participating in interscholastic athletics at a school that is a member of the West Virginia Secondary School Activities Commission; modifying qualifications of athletic trainers and physical therapists for certain purposes; requiring the Secondary School Activities Commission to submit certain head injury and concussion-related reports to the Legislative Oversight Commission on Health and Human Resources Accountability; providing that schools that do not follow established protocol on concussions and head injuries in interscholastic athletics are subject to disciplinary actions by the Secondary School Activities Commission; and providing that schools that do not follow the requirements of their emergency action plans for athletics are subject to disciplinary actions by the Secondary School Activities Commission.

Be it enacted by the Legislature of West Virginia:

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.

(a) The Legislature makes the following findings:

(1) Concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. The Centers for Disease Control and Prevention estimates that as many as 3.9 million sports-related and recreation-related concussions occur in the United States each year;

(2) A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed;

(3) Concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally functions;
(4) Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other or with obstacles;

(5) Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness;

(6) The interscholastic athlete who continues to play or practice with a concussion or symptoms of head injury is especially vulnerable to greater injury and even death; and

(7) Even with generally recognized return-to-play-and-practice standards for concussion and head injury, some affected interscholastic athletes are prematurely returned to play or practice resulting in increased risk of physical injury or death to the athletes in the state of West Virginia.

(b) For the purposes of this section, “interscholastic athlete” means any athlete who is participating in interscholastic athletics at a high school or middle school that is a member of the West Virginia Secondary School Activities Commission. “Licensed health care professional” means a health care provider whose licensed scope of practice includes the ability to diagnose and treat an injury or disease.

(c) The West Virginia Secondary School Activities Commission shall promulgate rules pursuant to §18-2-25 of this code that address concussions and head injuries in interscholastic athletes: Provided, That prior to state board approval and notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9 of this code.

(d) The rules required by this section shall include, but are not limited to, the following:

(1) Guidelines and other pertinent information to inform and educate appropriate school administrators, coaches, interscholastic athletes, and their parents or guardians of the nature and risk of concussion and head injury including the risks of continuing to play or practice after a concussion or head injury;
(2) A concussion and head injury information sheet that shall be signed and returned by the interscholastic athlete and the athlete's parent or guardian on an annual basis before the interscholastic athlete begins practice or competition;

(3) A requirement that each head coach of an interscholastic sport at a high school or middle school who is a member of the West Virginia Secondary School Activities Commission complete a commission-approved concussion and head injury recognition and return-to-play protocol course annually;

(4) A requirement that an interscholastic athlete who is suspected by a licensed health care professional or by his or her head coach or licensed or registered athletic trainer of having sustained a concussion or head injury in a practice or game shall be removed from competition at that time;

(5) A requirement that an interscholastic athlete who has been removed from play or practice may not return to play or practice until the athlete is evaluated by a licensed health care professional trained in the evaluation and management of concussions and receives written clearance to return to play and practice from the licensed health care professional;

(6) A list of the respective categories of licensed health care professionals including, but not limited to, licensed physical therapists and licensed or registered athletic trainers who, if properly trained in the evaluation and management of concussions, are authorized to provide written clearance for the interscholastic athlete to return to play; and

(7) A requirement that all member schools must submit a report to the West Virginia Secondary School Activities Commission within 30 days of an interscholastic athlete suffering or being suspected of suffering a concussion or head injury in a practice or game. The report must state whether an evaluation by a licensed health care professional verified that a concussion or head injury was actually suffered, whether the athlete received written clearance to return to play or practice and, if written clearance was given, the number of days between the incident and the actual return to play or practice. If written clearance to return to play is given after 30 days of the
incident, a report update shall be submitted. The West Virginia Secondary School Activities Commission shall compile and submit the reports to the appropriate state and national organization or agencies to analyze and make determinations on whether the rule required by this section needs to be amended or if equipment worn by interscholastic athletes needs to be changed accordingly. The West Virginia School Activities Commission also shall submit the reports to the Legislative Oversight Commission on Health and Human Resources Accountability.

(e) Any member school not complying with the requirements of this section, and rules promulgated thereof, shall be subject to the disciplinary actions ordered by the West Virginia Secondary School Activities Commission: Provided, That the West Virginia Secondary School Activities Commission shall promulgate rules to establish guidelines for noncompliance and related disciplinary actions: Provided, however, That prior to state board approval and notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9 of this code.

§18-2-25b. Emergency action plans for athletics.

(a) No later than August 1, 2017, the West Virginia Secondary School Activities Commission shall promulgate rules to establish guidelines for emergency action plans for athletics designed to respond to athletic injuries that occur on school property during school-sponsored athletic events. The rules shall address, at a minimum:

(1) Protocols for practices and for games;

(2) Directives for personnel or equipment which should be available on sports fields or in school buildings for both girls’ and boys’ teams; and

(3) Training needed for school or volunteer personnel on an as-needed basis.

(b) All member schools shall submit an emergency action plan for athletics to the West Virginia Secondary School Activities Commission and their county boards of education by December 31, 2017: Provided, That the county boards shall keep the emergency plan of each
school in the county on file and, unless otherwise provided for, provide a copy of each school's
emergency action plan for athletics to each local emergency response agency that has a role in
the plan.

(c) Any person licensed by, or certified or registered in, this state to provide health care or
professional health care services who renders services of a medical nature to students under this
section, who has an agreement with a county board of education that defines the scope of his or
her duties as such, and for which no remuneration is demanded or received, is not liable for any
civil damages as a result of rendering such services, or as a result of any act or failure to act in
providing or arranging further medical treatment.

(1) The limitation of liability only applies if the services are provided in accordance with
acceptable standards of care and the licensed health care provider is not grossly negligent or
does not demonstrate willful misconduct.

(2) Any liability is limited to the applicable limits of the professional liability insurance
provided by the State Board of Risk and Insurance Management in effect at the time.

(3) Nothing in this subsection nullifies the immunity from civil liability as granted pursuant
to §55-7-15 of this code or federal law except to the extent to which the actions are covered within
the applicable limits of the professional liability insurance provided by the State Board of Risk and
Insurance Management pursuant to this section and in effect at the time.

(d) Any member school not complying with the requirements of this section, and rules
promulgated thereof, shall be subject to the disciplinary actions ordered by the West Virginia
Secondary School Activities Commission: Provided, That the West Virginia Secondary School
Activities Commission shall promulgate rules to establish guidelines for noncompliance and
related disciplinary actions: Provided, however, That prior to state board approval and
notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the
rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9
of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman/Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ...... approved........... this the......

Day of ....March...... 2019.

Governor
PRESENTED TO THE GOVERNOR

11/22/20

Time: 11:16am