

SENATE BILL 865

F1, J1

0lr3116
CF HB 1391

By: **Senators Lenett and Zirkin**

Introduced and read first time: February 12, 2010

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 19, 2010

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 3, 2010

CHAPTER _____

1 AN ACT concerning

2 **Education – Student–Athletes – Concussions**

3 FOR the purpose of requiring the State Department of Education, in collaboration
4 with certain organizations and individuals, to develop and implement a certain
5 program; requiring a certain program to include a certain verification process;
6 requiring county boards of education to provide a certain information sheet to
7 certain individuals; requiring certain individuals to sign certain statements;
8 requiring the Department to create a certain information sheet and
9 acknowledgment statement; requiring the removal from play of certain
10 student–athletes; prohibiting the return to play of certain student–athletes
11 until certain student–athletes receive certain evaluation and clearance;
12 ~~granting certain immunity to certain health care providers, county boards, and~~
13 ~~youth sports programs under certain circumstances; establishing certain~~
14 ~~requirements for certain insurance policies;~~ requiring youth sports programs to
15 provide certain information to county boards under certain circumstances;
16 ~~providing that certain grants of immunity do not impair the ability of certain~~
17 ~~persons to recover certain damages~~ defining certain terms; and generally
18 relating to the development and implementation of a program to provide
19 awareness and training on the nature and risk of concussions.

20 BY adding to

21 Article – Education

22 Section 7–430

23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2008 Replacement Volume and 2009 Supplement)

2 Preamble

3 WHEREAS, A concussion, also known as mild traumatic brain injury or head
4 injury, is one of the most commonly reported injuries in children and adolescents who
5 participate in sports and recreational activities; and

6 WHEREAS, The risk of catastrophic injury or death is significant when a
7 concussion is not properly evaluated and managed; and

8 WHEREAS, A concussion is a type of brain injury that may range from mild to
9 severe and may disrupt the way the brain normally works; and

10 WHEREAS, A concussion may occur in any organized or unorganized sport or
11 recreational activity and may result from a fall or from players colliding with each
12 other, the ground, or with obstacles; and

13 WHEREAS, A concussion may occur with or without loss of consciousness, but
14 the vast majority occur without a loss of consciousness; and

15 WHEREAS, Continuing to play with a concussion or symptoms of a head injury
16 leaves a student–athlete especially vulnerable to greater injury and even death; and

17 WHEREAS, Despite the existence of generally recognized return–to–play
18 standards for head concussion and head injury, some affected student–athletes are
19 prematurely returned to play, potentially resulting in more significant brain injuries
20 to or death of student–athletes in the State; now, therefore,

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Education**

24 **7–430.**

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
26 MEANINGS INDICATED.

27 (2) “CONCUSSION” MEANS A HEAD INJURY CAUSED BY A BLOW OR
28 MOTION TO THE HEAD OR BODY THAT CAUSES THE BRAIN TO MOVE RAPIDLY
29 INSIDE THE SKULL TRAUMATIC INJURY TO THE BRAIN CAUSING AN IMMEDIATE
30 AND, USUALLY, SHORT-LIVED CHANGE IN MENTAL STATUS OR AN ALTERATION
31 OF NORMAL CONSCIOUSNESS RESULTING FROM:

32 (I) A FALL;

1 **(II) A VIOLENT BLOW TO THE HEAD OR BODY; OR**

2 **(III) THE SHAKING OR SPINNING OF THE HEAD OR BODY.**

3 **(3) “STUDENT-ATHLETE” MEANS ~~A STUDENT~~ AN INDIVIDUAL**
4 **WHO IS 17 YEARS OLD OR YOUNGER OR WHO IS A PHYSICALLY OR MENTALLY**
5 **DISABLED INDIVIDUAL OF ANY AGE WHO PARTICIPATES IN AN ATHLETIC**
6 **ACTIVITY IN ASSOCIATION WITH:**

7 **(I) AN ~~INTERSCHOLASTIC ATHLETIC~~ ACTIVITY**
8 **EDUCATIONAL INSTITUTION; OR**

9 **(II) A NONINTERSCHOLASTIC YOUTH SPORTS PROGRAM**
10 **CONDUCTED ~~AT:~~**

11 **1. AT A PUBLIC SCHOOL FACILITY; OR**

12 **2. BY A RECREATIONAL ATHLETIC ORGANIZATION.**

13 **(4) “YOUTH SPORTS PROGRAM” MEANS A PROGRAM ORGANIZED**
14 **FOR RECREATIONAL ATHLETIC COMPETITION OR INSTRUCTION FOR**
15 **PARTICIPANTS WHO ARE:**

16 **(I) UNDER THE AGE OF 18 YEARS; OR**

17 **(II) PHYSICALLY OR MENTALLY DISABLED REGARDLESS OF**
18 **AGE.**

19 **(B) (1) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A**
20 **PROGRAM TO PROVIDE AWARENESS ~~AND TRAINING~~ TO COACHES, SCHOOL**
21 **PERSONNEL, STUDENT-ATHLETES, AND THE PARENTS OR GUARDIANS OF**
22 **STUDENT-ATHLETES, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH**
23 **AND MENTAL HYGIENE, EACH COUNTY BOARD, THE MARYLAND PUBLIC**
24 **SECONDARY SCHOOLS ATHLETIC ASSOCIATION, THE MARYLAND ATHLETIC**
25 **TRAINERS ASSOCIATION, THE BRAIN INJURY ASSOCIATION OF MARYLAND,**
26 **AND REPRESENTATIVES OF LICENSED HEALTH CARE PROVIDERS WHO TREAT**
27 **CONCUSSIONS ON:**

28 **(I) THE NATURE AND RISK OF A CONCUSSION;**

29 **(II) THE CRITERIA FOR REMOVAL FROM AND RETURN TO**
30 **PLAY; AND**

31 **(III) THE RISKS OF NOT REPORTING INJURY AND**
32 **CONTINUING TO PLAY.**

1 (2) THE PROGRAM SHALL INCLUDE A VERIFICATION PROCESS TO
 2 VERIFY THAT A COACH HAS RECEIVED THE TRAINING REQUIRED INFORMATION
 3 RELATING TO THE PROGRAM DEVELOPED UNDER PARAGRAPH (1) OF THIS
 4 SUBSECTION.

5 (3) (I) ~~ON AN ANNUAL BASIS, BEFORE~~ BEFORE A
 6 STUDENT-ATHLETE'S PARTICIPATION IN AN ATHLETIC ACTIVITY, THE COUNTY
 7 BOARD SHALL PROVIDE A CONCUSSION AND HEAD INJURY INFORMATION SHEET
 8 TO THE STUDENT-ATHLETE AND A PARENT OR GUARDIAN OF THE
 9 STUDENT-ATHLETE.

10 (II) THE STUDENT-ATHLETE AND THE PARENT OR
 11 GUARDIAN OF THE STUDENT-ATHLETE SHALL SIGN A STATEMENT
 12 ACKNOWLEDGING RECEIPT OF THE INFORMATION SHEET.

13 (III) THE DEPARTMENT SHALL CREATE THE INFORMATION
 14 SHEET AND ACKNOWLEDGMENT STATEMENT REQUIRED UNDER THIS
 15 PARAGRAPH.

16 (C) (1) A STUDENT-ATHLETE WHO IS SUSPECTED OF SUSTAINING A
 17 CONCUSSION OR OTHER HEAD INJURY IN A PRACTICE OR GAME SHALL BE
 18 REMOVED FROM PLAY AT THAT TIME.

19 (2) A STUDENT-ATHLETE WHO HAS BEEN REMOVED FROM PLAY
 20 MAY NOT RETURN TO PLAY UNTIL THE STUDENT-ATHLETE: HAS OBTAINED
 21 WRITTEN CLEARANCE BY A LICENSED HEALTH CARE PROFESSIONAL.

22 ~~(I) HAS BEEN EVALUATED BY A LICENSED HEALTH CARE~~
 23 ~~PROVIDER TRAINED IN THE EVALUATION AND MANAGEMENT OF CONCUSSIONS;~~
 24 ~~AND~~

25 ~~(II) HAS OBTAINED WRITTEN CLEARANCE TO RETURN TO~~
 26 ~~PLAY FROM THE HEALTH CARE PROVIDER.~~

27 ~~(3) (I) A LICENSED HEALTH CARE PROVIDER WHO FOR NO FEE~~
 28 ~~OR OTHER COMPENSATION EVALUATES A STUDENT ATHLETE UNDER~~
 29 ~~PARAGRAPH (2) OF THIS SUBSECTION AND AUTHORIZES THE~~
 30 ~~STUDENT ATHLETE TO RETURN TO PLAY IS NOT LIABLE FOR ANY CIVIL~~
 31 ~~DAMAGES AS THE RESULT OF ANY PROFESSIONAL ACT OR OMISSION BY THE~~
 32 ~~PERSON NOT AMOUNTING TO GROSS NEGLIGENCE OR WILLFUL OR WANTON~~
 33 ~~MISCONDUCT.~~

34 ~~(D) (1) A COUNTY BOARD AND A YOUTH SPORTS PROGRAM SHALL BE~~
 35 ~~IMMUNE FROM CIVIL LIABILITY FOR AN INJURY TO OR THE DEATH OF A~~

1 ~~STUDENT-ATHLETE DUE TO THE ACTION OR INACTION OF A PERSON EMPLOYED~~
2 ~~BY OR UNDER CONTRACT WITH A YOUTH SPORTS PROGRAM, IF:~~

3 ~~(I) THE ACTION OR INACTION TAKES PLACE AT A PUBLIC~~
4 ~~SCHOOL FACILITY DURING THE DELIVERY OF THE SERVICES OF THE YOUTH~~
5 ~~SPORTS PROGRAM; AND~~

6 ~~(II) THE YOUTH SPORTS PROGRAM PROVIDES PROOF OF~~
7 ~~BEING INSURED, UNDER AN ACCIDENT AND LIABILITY POLICY ISSUED BY AN~~
8 ~~INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE, THAT~~
9 ~~COVERS ANY INJURY OR DAMAGE ARISING FROM DELIVERY OF ITS SERVICES.~~

10 ~~(2) COVERAGE FOR A POLICY MEETING THE REQUIREMENTS OF~~
11 ~~THIS SUBSECTION SHALL BE:~~

12 ~~(I) AT LEAST \$50,000 DUE TO BODILY INJURY OR DEATH~~
13 ~~OF ONE PERSON; AND~~

14 ~~(II) AT LEAST \$100,000 DUE TO BODILY INJURY OR DEATH~~
15 ~~OF TWO OR MORE PERSONS IN ANY INCIDENT.~~

16 ~~(3) (D) BEFORE THE FIRST USE OF A PUBLIC SCHOOL FACILITY,~~
17 ~~A YOUTH SPORTS PROGRAM SHALL PROVIDE TO THE COUNTY BOARD:~~

18 ~~(I) A STATEMENT OF COMPLIANCE WITH THE~~
19 ~~REQUIREMENTS FOR THE MANAGEMENT OF A CONCUSSION OR OTHER HEAD~~
20 ~~INJURY OF A STUDENT-ATHLETE UNDER SUBSECTION (C) OF THIS SECTION;~~
21 ~~AND~~

22 ~~(II) PROOF OF THE INSURANCE POLICY REQUIRED UNDER~~
23 ~~THIS SUBSECTION.~~

24 ~~(4) THE IMMUNITY GRANTED UNDER THIS SUBSECTION APPLIES~~
25 ~~ONLY DURING THE TIME PERIOD THE INSURANCE POLICY REQUIRED UNDER~~
26 ~~THIS SUBSECTION IS IN EFFECT.~~

27 ~~(5) (I) THIS SUBSECTION MAY NOT IMPAIR OR LIMIT THE~~
28 ~~ABILITY OF ANY PERSON TO RECOVER DAMAGES FOR HARM DONE BY:~~

29 ~~1. A CONTRACTOR OR AN EMPLOYEE OF A LOCAL~~
30 ~~SCHOOL SYSTEM ACTING IN THE CONTRACTOR'S OR EMPLOYEE'S CAPACITY AS A~~
31 ~~CONTRACTOR OR EMPLOYEE; OR~~

32 ~~2. THE EXISTENCE OF AN UNSAFE PUBLIC SCHOOL~~
33 ~~FACILITY, STRUCTURE, OR PROGRAM OF A COUNTY BOARD.~~

1 ~~(H) THIS PARAGRAPH DOES NOT LIMIT OR DIMINISH ANY~~
2 ~~IMMUNITY FROM CIVIL LIABILITY PROVIDED UNDER PARAGRAPH (1) OF THIS~~
3 ~~SUBSECTION.~~

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.