

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 340**

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

8 _____
9 [Originating in the Committee on Judiciary;
10 reported February 23, 2012.]

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

23 *Be it enacted by the Legislature of West Virginia:*

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

1 **ARTICLE 2. STATE BOARD OF EDUCATION.**

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

6 (a) The Legislature finds:

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

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

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

19 (4) Concussions can occur in any organized or unorganized
20 sport or recreational activity and can result from a fall or from
21 players colliding with each other, the ground or with obstacles;

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

24 (6) Continuing to play or practice with a concussion or
25 symptoms of head injury leaves the interscholastic athlete

1 especially vulnerable to greater injury and even death. The
2 Legislature recognizes that, despite having generally recognized
3 return to play and practice standards for concussion and head
4 injury, some affected interscholastic athletes are prematurely
5 returned to play or practice resulting in actual or potential
6 physical injury or death to the athletes in the State of West
7 Virginia.

8 (b) For the purposes of this section, "interscholastic
9 athlete" means any athlete who is participating in interscholastic
10 athletics at a high school or middle school that is a member of the
11 West Virginia Secondary School Activities Commission.

12 (c) The West Virginia Secondary School Activities Commission
13 shall promulgate rules pursuant to section twenty-five of this
14 article that address concussions and head injuries in
15 interscholastic athletes: *Provided*, That prior to state board
16 approval and notwithstanding the exemption provided in section
17 three, article one, chapter twenty-nine-a of this code, the state
18 board shall submit the rule to the Legislative Oversight Commission
19 on Education Accountability pursuant to section nine, article
20 three-b, chapter twenty-nine-a of this code. The rules required by
21 this section shall include, but are not limited to, the following:

22 (1) Guidelines, other pertinent information and forms, as
23 appropriate, shall be developed to inform and educate appropriate
24 school administrators, coaches, interscholastic athletes and their
25 parents or guardians of the nature and risk of concussion and head
26 injury including continuing to play or practice after a concussion

1 or head injury;

2 (2) On a yearly basis, a concussion and head injury
3 information sheet shall be provided to the interscholastic athlete
4 and the athlete's parent or guardian before the interscholastic
5 athlete begins practice or competition;

6 (3) An interscholastic athlete who is suspected of sustaining
7 a concussion or head injury in a practice or game shall be removed
8 from competition at that time;

9 (4) An interscholastic athlete who has been removed from play
10 or practice may not return to play or practice until the athlete is
11 evaluated by a licensed health care provider trained in the
12 evaluation and management of concussions and receives written
13 clearance to return to play and practice from that licensed health
14 care provider. The health care provider may be a volunteer. A
15 volunteer who authorizes an interscholastic athlete to return to
16 play and practice is not liable for civil damages resulting from
17 any act or omission in the rendering of such care, other than acts
18 or omissions constituting gross negligence or willful or wanton
19 misconduct. For the purposes of this section, a licensed health
20 care provider shall be a medical doctor licensed under the
21 provisions of article three, chapter thirty of this code, a doctor
22 of osteopathy licensed under the provisions of article fourteen,
23 chapter thirty of this code, an advanced registered nurse
24 practitioner licensed under the provisions of article seven,
25 chapter thirty of this code, a physicians assistant as licensed
26 under the provisions of article three, chapter thirty of this code

1 and an athletic trainer certified by the National Athletic
2 Trainers' Association Board of Certification and registered under
3 article twenty-a, chapter thirty of this code; and

4 (5) A requirement that all member schools must submit a report
5 to the West Virginia Secondary School Activities Commission
6 whenever an interscholastic athlete suffers or is suspected of
7 suffering a concussion or head injury in a practice or game. The
8 report must be submitted within thirty days after the
9 interscholastic athlete receives written clearance to return to
10 play or practice from the licensed health care provider. The
11 written clearance must be included with the report submitted by the
12 member school. The West Virginia Secondary School Activities
13 Commission shall compile and analyze all reports and make a
14 determination on whether the rule required by this section or
15 equipment worn by interscholastic athlete needs to be amended
16 accordingly.