



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2011 Senate Bill 243**

**Senate Substitute  
Amendment 2**

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### **2011 SENATE BILL 243**

2011 Senate Bill 243 (the bill) requires any person who is suspected of sustaining a concussion or head injury while participating in a youth athletic activity to be removed from the activity immediately. The person may not return to the activity until they have received written clearance to do so from a health care provider. The specific provisions of the bill are described below.

#### **Types of Activities Covered**

The provisions of the bill apply to any “youth athletic activity,” which is defined to mean “an organized athletic activity in which the participants, a majority of whom are under 19 years of age, are engaged in an athletic game or competition against another team, club, or entity, or in practice or preparation for an organized athletic game or competition against another team, club, or entity.” “Youth athletic activity” does not include a college or university activity or an activity that is incidental to a nonathletic program.

#### **Duties of Person Operating Youth Athletic Activity**

Each person operating a youth athletic activity must, at the beginning of the season, distribute an information sheet about concussions and head injuries to each person who will be coaching the activity and to each person who wishes to participate in the activity.

A person may not participate in a youth athletic activity until he or she has returned the information sheet signed by the person and, if he or she is under the age of 19, also signed by his or her parent or guardian.

### **Duties of DPI**

In conjunction with the Wisconsin Interscholastic Athletic Association, the Department of Public Instruction (DPI) must develop guidelines and other information for the purpose of educating athletic coaches and pupil athletes and their parents or guardians about the nature and risk of concussion and head injury in youth athletic activities.

### **Suspected Concussions or Head Injuries**

The bill states that a person who is suspected of sustaining a concussion or head injury in a youth athletic activity “must be removed from the activity immediately.” A person who has been removed from a youth athletic activity may not participate in a youth athletic activity until both of the following occur:

- The person is evaluated by a health care provider who has been trained in the evaluation and management of concussion and head injuries; and
- The person receives a written clearance to participate in the activity from the health care provider.

### **Immunity from Liability**

The bill provides that if an athletic coach, official, or volunteer fails to remove a person from the activity as required under the bill, he or she is immune from civil liability for any injury resulting from that omission unless it constitutes gross negligence or willful or wanton misconduct.

The bill also provides that any volunteer who provides a written clearance to a person to participate in a youth athletic activity is immune from civil liability for any injury resulting from that act unless the act constitutes gross negligence or willful or wanton misconduct.

The bill specifies that it does not create any liability for, or a cause of action against, any person.

### **SENATE SUBSTITUTE AMENDMENT 2**

Senate Substitute Amendment 2 differs from the bill in the following ways:

1. Applies only to youth athletic activities sponsored by a public or private school.
2. Rather than specifying all the actions that must be taken if a participant in a youth athletic activity is suspected of suffering a concussion, requires each school board and governing body of each private school to adopt a concussion policy.
3. Specifies that any concussion policy adopted must prohibit a participant who has been removed from a youth athletic activity because he or she is suspected of suffering a concussion from returning to the activity unless he or she receives written clearance to do so from a physician (rather than a licensed health care provider) and written approval from his or her parent or guardian.

4. Directs DPI to develop a model school concussion policy that addresses the circumstances in which a participant in a youth athletic activity who is suspected of suffering a concussion should be removed from the activity and the circumstances in which they may return to the activity. School boards and governing bodies of private schools may, but are not required to, adopt the model policy.
5. Specifies that a public or private school employee or volunteer is immune from civil liability for a concussion sustained by a participant in a youth athletic activity if the employee or volunteer complied with the policy adopted by the school board or private school governing body.
6. Specifies that the bill does not create any liability for, or a cause of action against, any person.

### **LEGISLATIVE HISTORY**

Senator Galloway introduced Senate Substitute Amendment 2 on March 7, 2012. On March 8, 2012, the Senate Committee on Public Health, Human Services, and Revenue voted to recommend adoption of Senate Substitute Amendment 2 on a vote of Ayes, 3; Noes, 2; and voted to recommend passage of the bill, as amended, on a vote of Ayes, 4; Noes, 1.

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