

# HOUSE BILL No. 5697

May 29, 2012, Introduced by Reps. Hooker, Yonker, Heise, Kurtz, Pscholka, Rendon, Jenkins, Potvin, Lyons, Ouimet, Johnson, Haines, Rutledge, Liss, Walsh and Outman and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding section 9155.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 9155. (1) BEFORE THE EXPIRATION OF 90 DAYS AFTER THE  
2        EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP,  
3        ADOPT, OR APPROVE EDUCATIONAL MATERIALS ON THE NATURE AND RISK OF  
4        CONCUSSIONS.

5        (2) BEFORE THE EXPIRATION OF 90 DAYS AFTER THE EFFECTIVE DATE  
6        OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP, ADOPT, OR APPROVE A  
7        CONCUSSION AWARENESS TRAINING PROGRAM THAT INCLUDES ALL OF THE  
8        FOLLOWING:

9            (A) THE NATURE AND RISK OF CONCUSSIONS.

10          (B) THE CRITERIA FOR THE REMOVAL OF AN ATHLETE FROM PHYSICAL  
11        PARTICIPATION IN AN ATHLETIC ACTIVITY DUE TO A SUSPECTED CONCUSSION

1 AND HIS OR HER RETURN TO THAT ATHLETIC ACTIVITY.

2 (C) THE RISKS TO AN ATHLETE OF NOT REPORTING A SUSPECTED  
3 CONCUSSION AND CONTINUING TO PHYSICALLY PARTICIPATE IN THE ATHLETIC  
4 ACTIVITY.

5 (3) AS SOON AS THEY ARE AVAILABLE, THE DEPARTMENT SHALL MAKE  
6 THE EDUCATIONAL MATERIALS AND TRAINING PROGRAM REQUIRED UNDER THIS  
7 SECTION AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S INTERNET  
8 WEBSITE. THE DEPARTMENT SHALL MAKE THE TRAINING PROGRAM AVAILABLE  
9 TO ALL INDIVIDUALS REQUIRED TO PARTICIPATE IN THE PROGRAM AND TO  
10 ANY INTERESTED INDIVIDUAL INCLUDING SCHOOL PERSONNEL, COACHES,  
11 PARENTS, STUDENTS, AND ATHLETES.

12 (4) BEFORE THE EXPIRATION OF 1 YEAR AFTER THE EFFECTIVE DATE  
13 OF THIS SECTION, THE DEPARTMENT SHALL PROMULGATE RULES UNDER THE  
14 ADMINISTRATIVE PROCEDURES ACT OF 1969 THAT IT DETERMINES NECESSARY  
15 TO IMPLEMENT AND ADMINISTER THIS SECTION. THE DEPARTMENT SHALL  
16 IDENTIFY IN THE RULES IT PROMULGATES UNDER THIS SECTION THE  
17 INDIVIDUALS WHO ARE REQUIRED TO PARTICIPATE IN THE TRAINING PROGRAM  
18 DEVELOPED UNDER SUBSECTION (2). THE DEPARTMENT SHALL IDENTIFY IN  
19 THE RULES IT PROMULGATES UNDER THIS SECTION THE ORGANIZING ENTITIES  
20 AND ATHLETIC ACTIVITIES THAT ARE EXEMPT FROM THE APPLICATION OF  
21 THIS SECTION PURSUANT TO SUBSECTIONS (7) AND (8).

22 (5) BEFORE A YOUTH ATHLETE MAY PARTICIPATE IN AN ATHLETIC  
23 ACTIVITY SPONSORED BY OR OPERATED UNDER THE AUSPICES OF AN  
24 ORGANIZING ENTITY, THE ORGANIZING ENTITY SHALL DO ALL OF THE  
25 FOLLOWING:

26 (A) COMPLY WITH ALL THE REQUIREMENTS OF THIS SECTION AND RULES  
27 PROMULGATED UNDER THIS SECTION WITH REGARD TO ITS COACHES,

1 EMPLOYEES, VOLUNTEERS, AND OTHER ADULTS WHO ARE INVOLVED WITH THE  
2 PARTICIPATION OF YOUTH ATHLETES IN ATHLETIC ACTIVITY SPONSORED BY  
3 OR OPERATED UNDER THE AUSPICES OF THAT ORGANIZING ENTITY AND WHO  
4 ARE REQUIRED TO PARTICIPATE IN THE CONCUSSION AWARENESS TRAINING  
5 PROGRAM DEVELOPED UNDER SUBSECTION (2).

6 (B) PROVIDE THE EDUCATIONAL MATERIALS DEVELOPED UNDER  
7 SUBSECTION (1) TO EACH YOUTH ATHLETE WHO PARTICIPATES IN AN  
8 ATHLETIC ACTIVITY SPONSORED BY OR OPERATED UNDER THE AUSPICES OF  
9 THE ORGANIZING ENTITY AND A PARENT OR GUARDIAN OF THE YOUTH  
10 ATHLETE.

11 (C) OBTAIN AND MAINTAIN IN A PERMANENT FILE FOR THE DURATION  
12 OF THAT YOUTH ATHLETE'S PARTICIPATION IN ATHLETIC ACTIVITY  
13 SPONSORED BY OR OPERATED UNDER THE AUSPICES OF THAT ORGANIZING  
14 ENTITY A STATEMENT SIGNED BY EACH YOUTH ATHLETE AND A PARENT OR  
15 GUARDIAN OF THE YOUTH ATHLETE ACKNOWLEDGING RECEIPT OF THE  
16 EDUCATIONAL MATERIAL DEVELOPED UNDER SUBSECTION (1). UPON REQUEST,  
17 THE ORGANIZING ENTITY SHALL MAKE THE STATEMENTS OBTAINED UNDER THIS  
18 SUBDIVISION AVAILABLE TO THE DEPARTMENT.

19 (6) A COACH OR OTHER ADULT EMPLOYED BY, VOLUNTEERING FOR, OR  
20 OTHERWISE ACTING ON BEHALF OF AN ORGANIZING ENTITY DURING AN  
21 ATHLETIC EVENT SPONSORED BY OR OPERATED UNDER THE AUSPICES OF THE  
22 ORGANIZING ENTITY SHALL IMMEDIATELY REMOVE FROM PHYSICAL  
23 PARTICIPATION IN AN ATHLETIC ACTIVITY A YOUTH ATHLETE WHO IS  
24 SUSPECTED OF SUSTAINING A CONCUSSION DURING THE ATHLETIC ACTIVITY.  
25 A YOUTH ATHLETE WHO HAS BEEN REMOVED FROM PHYSICAL PARTICIPATION IN  
26 AN ATHLETIC ACTIVITY UNDER THIS SUBSECTION SHALL NOT RETURN TO  
27 PHYSICAL ACTIVITY UNTIL HE OR SHE HAS BEEN EVALUATED BY AN

1 APPROPRIATE HEALTH PROFESSIONAL AND RECEIVES WRITTEN CLEARANCE FROM  
2 THAT HEALTH PROFESSIONAL AUTHORIZING THE YOUTH ATHLETE'S RETURN TO  
3 PHYSICAL PARTICIPATION IN THE ATHLETIC ACTIVITY. THE ORGANIZING  
4 ENTITY SHALL MAINTAIN IN A PERMANENT FILE FOR THE DURATION OF THAT  
5 YOUTH ATHLETE'S PARTICIPATION IN ATHLETIC ACTIVITY SPONSORED BY OR  
6 OPERATED UNDER THE AUSPICES OF THAT ORGANIZING ENTITY THE WRITTEN  
7 CLEARANCE UNDER THIS SUBSECTION. UPON REQUEST, THE ORGANIZING  
8 ENTITY SHALL MAKE THE WRITTEN CLEARANCE OBTAINED UNDER THIS  
9 SUBSECTION AVAILABLE TO THE DEPARTMENT.

10 (7) THIS SECTION DOES NOT APPLY TO AN ATHLETIC ACTIVITY  
11 SPONSORED BY OR OPERATED UNDER THE AUSPICES OF AN ORGANIZING ENTITY  
12 IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

13 (A) THE ENTITY IS A MEMBER OF A PRIVATE NONPROFIT MULTISPORT  
14 STATEWIDE INTERSCHOLASTIC ATHLETIC ASSOCIATION OR OTHER SPORTS  
15 ORGANIZATION.

16 (B) THE ATHLETIC ACTIVITY IS GOVERNED BY A RULE ESTABLISHED BY  
17 THE INTERSCHOLASTIC ATHLETIC ASSOCIATION OR SPORTS ORGANIZATION  
18 DESCRIBED IN SUBDIVISION (A), WHICH RULE ESTABLISHES CONCUSSION  
19 PROTOCOLS THAT ARE SUBSTANTIALLY SIMILAR TO THE CONCUSSION  
20 PROTOCOLS PROVIDED IN THIS SECTION AND INCLUDES AN ENFORCEMENT  
21 MECHANISM ON ITS MEMBERS.

22 (8) THIS SECTION DOES NOT APPLY TO AN ENTITY THAT WOULD  
23 OTHERWISE BE CONSIDERED AN ORGANIZING ENTITY UNDER THIS SECTION IF  
24 THE PRIMARY FOCUS OF THE PROGRAM OR EVENT SPONSORED BY OR OPERATED  
25 UNDER THE AUSPICES OF THAT ENTITY IS NOT THE PARTICIPATION IN AN  
26 ORGANIZED ATHLETIC GAME OR COMPETITION BUT THAT PARTICIPATION IS  
27 ONLY INCIDENTAL TO THE PRIMARY FOCUS OF THE PROGRAM OR EVENT.

(9) AS USED IN THIS SECTION:

(A) "APPROPRIATE HEALTH PROFESSIONAL" MEANS A HEALTH PROFESSIONAL WHO IS LICENSED OR OTHERWISE AUTHORIZED TO ENGAGE IN A HEALTH PROFESSION UNDER ARTICLE 15 AND WHOSE SCOPE OF PRACTICE WITHIN THAT HEALTH PROFESSION INCLUDES THE RECOGNITION, TREATMENT, AND MANAGEMENT OF CONCUSSIONS.

(B) "ATHLETIC ACTIVITY" MEANS A PROGRAM OR EVENT, INCLUDING PRACTICE AND COMPETITION, DURING WHICH YOUTH ATHLETES PARTICIPATE OR PRACTICE TO PARTICIPATE IN AN ORGANIZED ATHLETIC GAME OR COMPETITION AGAINST ANOTHER TEAM, CLUB, ENTITY, OR INDIVIDUAL. ATHLETIC ACTIVITY INCLUDES PARTICIPATION IN PHYSICAL EDUCATION CLASSES THAT ARE PART OF A SCHOOL CURRICULUM.

(C) "CONCUSSION" MEANS A TYPE OF TRAUMATIC BRAIN INJURY AS RECOGNIZED BY THE CENTERS FOR DISEASE CONTROL AND PREVENTION. A CONCUSSION MAY CAUSE A CHANGE IN A PERSON'S MENTAL STATUS AT THE TIME OF THE INJURY, INCLUDING, BUT NOT LIMITED TO, FEELING DAZED, DISORIENTED, OR CONFUSED, AND MAY OR MAY NOT INVOLVE A LOSS OF CONSCIOUSNESS. A CONCUSSION MAY BE CAUSED BY ANY TYPE OF ACCIDENT OR INJURY INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(i) A FALL.

(ii) A BLOW, BUMP, OR JOLT TO THE HEAD OR BODY.

(iii) THE SHAKING OR SPINNING OF THE HEAD OR BODY.

(iv) THE ACCELERATION AND DECELERATION OF THE HEAD.

(D) "ORGANIZING ENTITY" MEANS ANY OF THE FOLLOWING:

(i) A SCHOOL.

(ii) A STATE OR LOCAL PARKS AND RECREATION DEPARTMENT OR COMMISSION OR OTHER STATE OR LOCAL ENTITY.

1           (iii) A NONPROFIT OR FOR-PROFIT ENTITY.

2           (iv) A PUBLIC OR PRIVATE ENTITY.

3           (E) "SCHOOL" MEANS A NONPUBLIC SCHOOL, PUBLIC SCHOOL, OR  
4 PUBLIC SCHOOL ACADEMY AS THOSE TERMS ARE DEFINED IN SECTION 5 OF  
5 THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.5.

6           (F) "YOUTH ATHLETE" MEANS AN INDIVIDUAL WHO ENGAGES IN AN  
7 ATHLETIC ACTIVITY AND WHO IS UNDER 18 YEARS OF AGE.