

Union Calendar No. 213

109TH CONGRESS
2^D SESSION

H. R. 1176

[Report No. 109-393]

To provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2005

Mr. SOUDER (for himself and Mr. CANTOR) introduced the following bill;
which was referred to the Committee on the Judiciary

MARCH 15, 2006

Additional sponsors: Mr. RAMSTAD, Mr. WYNN, Mr. CHABOT, Mr. WAMP, Mrs. MUSGRAVE, Mr. OSBORNE, Mr. HASTINGS of Washington, Mr. BISHOP of Georgia, Mr. CONAWAY, Mr. BRADLEY of New Hampshire, Ms. GINNY BROWN-WAITE of Florida, Mr. KUHL of New York, Mr. BURTON of Indiana, Mr. GREEN of Wisconsin, Mrs. DRAKE, Mr. AKIN, and Mr. KENNEDY of Minnesota

MARCH 15, 2006

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to the passage, adoption, or failure to adopt rules of play for athletic competitions and practices.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nonprofit Athletic Or-
5 ganization Protection Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Amateur Sports and education-based ath-
9 letics are an important part of our culture. Sports
10 provide a tremendous opportunity for the youth of
11 America to learn the skills of leadership, teamwork,
12 and discipline. Studies have shown that participation
13 in these activities is directly connected to academic
14 achievement and overall social development.

15 (2) Amateur athletics are integral to the good
16 health and overall well-being of American society.
17 Nonprofit organizations put forward their best ef-
18 forts to enact rules that are in the best interests of
19 young people. Injuries will occur as a result of the
20 inherent risks involved in sports. These risks, how-
21 ever, should not work to the detriment of the greater
22 good served by amateur athletics.

23 (3) Young people who participate in school
24 sports and other amateur competition have lower
25 levels of obesity.

1 (4) Young people who participate in sports tend
2 to be fitter adults, and suffer fewer health problems
3 as they age.

4 (5) Playing rules in amateur sports are nec-
5 essary to provide the opportunity for young people
6 to participate in age- and skill level-appropriate com-
7 petition.

8 (6) Sport involves intense physical activity. It
9 also involves a certain element of danger. Rule mak-
10 ing is anticipatory, and hence a difficult balancing
11 act. Rules committee members face a constant
12 struggle to balance the tradeoffs of limiting risk and
13 preserving the key elements and sound traditions of
14 the sport. Rules makers must draw unambiguous
15 lines; they do not have the luxury of self-protective
16 vagueness. Given the large number of participants
17 and the risks inherent in sport, injuries cannot be
18 avoided. By deciding to partake in competition, ath-
19 letes assume such risks. Allowing lawsuits based
20 merely on the good faith development of the rules is
21 wrong and unfair.

22 (7) Rules makers have been the target of an in-
23 creasing number of lawsuits claiming negligence due
24 to the adoption, or failure to adopt, particular rules
25 for amateur sports.

1 (8) Repeatedly defending claims will have a det-
2 rimental impact on the ability of rules makers to
3 continue to provide these services, and will discour-
4 age the best and brightest coaches, officials, and ad-
5 ministrators from serving on rules committees. Addi-
6 tionally, some children may lose the opportunity to
7 participate in organized sports if higher insurance
8 premiums compel amateur athletic organizations to
9 raise fees.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) **ECONOMIC LOSS.**—The term “economic
13 loss” means any pecuniary loss resulting from harm
14 (including the loss of earnings or other benefits re-
15 lated to employment, medical expense loss, replace-
16 ment services loss, loss due to death, burial costs,
17 and loss of business or employment opportunities) to
18 the extent recovery for such loss is allowed under ap-
19 plicable State law.

20 (2) **HARM.**—The term “harm” includes phys-
21 ical, nonphysical, economic, and noneconomic losses.

22 (3) **NONECONOMIC LOSS.**—The term “non-
23 economic loss” means any loss resulting from phys-
24 ical and emotional pain, suffering, inconvenience,
25 physical impairment, mental anguish, disfigurement,

1 loss of enjoyment of life, loss of society and compan-
2 ionship, loss of consortium (other than loss of do-
3 mestic service), hedonic damages, injury to reputa-
4 tion, and all other nonpecuniary losses of any kind
5 or nature.

6 (4) NONPROFIT ORGANIZATION.—The term
7 “nonprofit organization” means—

8 (A) any organization which is described in
9 section 501(c)(3) of the Internal Revenue Code
10 of 1986 and exempt from tax under section
11 501(a) of such Code; or

12 (B) any not-for-profit organization which
13 is organized and conducted for public benefit
14 and operated primarily for charitable, civic,
15 educational, religious, welfare, or health pur-
16 poses.

17 (5) NONPROFIT ATHLETIC ORGANIZATION.—
18 The term “nonprofit athletic organization” means a
19 nonprofit organization that has as one of its primary
20 functions the adoption of rules for sanctioned or ap-
21 proved athletic competitions and practices. The term
22 includes the employees, agents, and volunteers of
23 such organization, provided such individuals are act-
24 ing within the scope of their duties with the non-
25 profit athletic organization.

1 (6) STATE.—The term “State” includes the
2 District of Columbia, and any commonwealth, terri-
3 tory, or possession of the United States.

4 **SEC. 4. LIMITATION ON LIABILITY FOR NONPROFIT ATH-**
5 **LETIC ORGANIZATIONS.**

6 (a) LIABILITY PROTECTION FOR NONPROFIT ATH-
7 LETIC ORGANIZATIONS.—Except as provided in sub-
8 sections (b) and (c), a nonprofit athletic organization shall
9 not be liable for harm caused by an act or omission of
10 the nonprofit athletic organization in the adoption of rules
11 of play for sanctioned or approved athletic competitions
12 or practices if—

13 (1) the nonprofit athletic organization was act-
14 ing within the scope of the organization’s duties at
15 the time of the adoption of the rules at issue;

16 (2) the nonprofit athletic organization was, if
17 required, properly licensed, certified, or authorized
18 by the appropriate authorities for the competition or
19 practice in the State in which the harm occurred or
20 where the competition or practice was undertaken;
21 and

22 (3) the harm was not caused by willful or crimi-
23 nal misconduct, gross negligence, or reckless mis-
24 conduct on the part of the nonprofit athletic organi-
25 zation.

1 (b) RESPONSIBILITY OF EMPLOYEES, AGENTS, AND
2 VOLUNTEERS TO NONPROFIT ATHLETIC ORGANIZA-
3 TIONS.—Nothing in this section shall be construed to af-
4 fect any civil action brought by any nonprofit athletic or-
5 ganization against any employee, agent, or volunteer of
6 such organization.

7 (c) EXCEPTIONS TO NONPROFIT ATHLETIC ORGANI-
8 ZATION LIABILITY PROTECTION.—If the laws of a State
9 limit nonprofit athletic organization liability subject to one
10 or more of the following conditions, such conditions shall
11 not be construed as inconsistent with this section:

12 (1) A State law that requires a nonprofit ath-
13 letic organization to adhere to risk management pro-
14 cedures, including mandatory training of its employ-
15 ees, agents, or volunteers.

16 (2) A State law that makes the nonprofit ath-
17 letic organization liable for the acts or omissions of
18 its employees, agents, and volunteers to the same ex-
19 tent as an employer is liable for the acts or omis-
20 sions of its employees.

21 (3) A State law that makes a limitation of li-
22 ability inapplicable if the civil action was brought by
23 an officer of a State or local government pursuant
24 to State or local law.

1 (d) NONAPPLICABILITY TO CERTAIN CLAIMS.—The
2 limitation on liability provided by subsection (a) does not
3 apply to an action or claim arising out of a Federal, State,
4 or local antitrust, labor, environmental, defamation,
5 tortious interference of contract law, or civil rights law,
6 or any other Federal, State, or local law providing protec-
7 tion from discrimination.

8 **SEC. 5. PREEMPTION.**

9 This Act preempts the laws of any State to the extent
10 that such laws are inconsistent with this Act, except that
11 this Act shall not preempt any State law that provides
12 additional protection from liability relating to the rule-
13 making activities of nonprofit athletic organizations.

14 **SEC. 6. EFFECTIVE DATE.**

15 (a) IN GENERAL.—This Act shall take effect on the
16 date of enactment of this Act.

17 (b) APPLICATION.—This Act applies to any claim for
18 harm caused by an act or omission of a nonprofit athletic
19 organization that is filed on or after the effective date of
20 this Act but only if the harm that is the subject of the
21 claim or the conduct that caused the harm occurred on
22 or after such effective date.

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