

BILL ANALYSIS

C.S.S.B. 82
By: Van de Putte
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas students participate in school-sponsored extracurricular activities without uniform health and safety standards. Texas law does not provide for comprehensive training of certain school personnel and students in basic safety procedures.

This bill requires the development and adoption of an extracurricular activity safety training program by the commissioner of education and allows for the use of resources that are currently available free of charge from non-profit organizations. The bill requires certain school personnel (coaches/trainers/sponsors) to complete the safety program which includes training in the recognition of potentially catastrophic injuries, emergency action planning, and CPR. Students participating in extracurricular activities will receive training in recognizing serious injuries and the dangers of dietary supplements. Schools that are found to be out of compliance with this bill by the school's superintendent or director will be subject to a range of penalties determined by University Interscholastic League (UIL). This bill addresses the completion of UIL forms which will help increase awareness of possible health conditions. The bill also includes liability language that protects schools districts and its officers and employees and volunteers.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Commissioner of Education in SECTION 1 of this bill.

ANALYSIS

Note: Unless otherwise specified, statutory references in this BILL ANALYSIS are to the Education Code.

This bill relates to safety regulations for certain public school extracurricular activities, and amends Chapter 33, Education Code, by adding Subchapter F. This subchapter applies to each public school in this state and to any other school in this state subject to University Interscholastic League rules.

The bill provides that the Commissioner of Education (commissioner) by rule shall develop and adopt an extracurricular activity safety training program as provided by Section 33.202, as added by this bill. In developing the program, the commissioner may use materials available from the American Red Cross, Emergency Medical Systems (EMS), or another appropriate entity. The following persons must satisfactorily complete the safety training program: a coach, trainer, or sponsor for an extracurricular athletic activity; except as provided below in this paragraph, a physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity; and a director responsible for a school marching band. The safety training program must include: certification of participants by the American Red Cross, the American Heart Association, or a similar organization or the University Interscholastic League, as determined by the commissioner; current training in emergency action planning, cardiopulmonary resuscitation if the person is not required to obtain certification under Section 33.086, communicating effectively with 9-1-1 emergency service operators and other emergency personnel, and recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and at least once each school year, a safety drill that incorporates the such training as described immediately above, and simulates various injuries as described immediately above. A school district shall provide

training to students participating in an extracurricular athletic activity related to: recognizing the symptoms of injuries as described above; and the risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance. The safety training program and the training for students participating in an extracurricular athletic activity may each be conducted by a school or school district or by the American Red Cross, the American Heart Association, or a similar organization or the University Interscholastic League. A physician who is employed by a school or school district or who volunteers to assist with an extracurricular athletic activity is not required to complete the safety training program if the physician attends a continuing medical education course that specifically addresses emergency medicine.

The bill provides that each student participating in an extracurricular athletic activity must complete the University Interscholastic League forms entitled "Preparticipation Physical Evaluation--Medical History" and "Acknowledgment of Rules." Each form must be signed by both the student and the student's parent or guardian, and must clearly state that failure to accurately and truthfully answer all questions on a form required by statute or by the University Interscholastic League as a condition for participation in an extracurricular athletic activity subjects a signer of the form to penalties determined by the University Interscholastic League. The "Preparticipation Physical Evaluation--Medical History" form must contain the following statement: "An individual answering in the affirmative to any question relating to a possible cardiovascular health issue, as identified on the form, should be restricted from further participation until the individual is examined and cleared by a physician, physician assistant, chiropractor, or nurse practitioner. Ultimately, the individual may need to be evaluated by a cardiologist and/or undergo cardiac testing (including an echocardiogram and/or other heart-related examination) based on the assessment by the primary care provider."

The bill provides that a coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participating in the activity to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon.

The bill provides that a coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that: each student participating in the activity is adequately hydrated; any prescribed asthma medication for a student participating in the activity is readily available to the student; emergency lanes providing access to the practice or competition area are open and clear; and heatstroke prevention materials are readily available. If a student participating in an extracurricular athletic activity, including a practice or competition, becomes unconscious during the activity, the student may not: return to the practice or competition during which the student became unconscious; or participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

The bill provides that, in accordance with Chapter 552, Government Code, a school shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for the school who is required to receive safety training described by Section 33.202, as added by this bill. The superintendent of a school district or the director of a school subject to this Subchapter F shall maintain complete and accurate records of the district's or school's compliance with Section 33.202. A school campus that is determined by the school's superintendent or director to be out of compliance with Section 33.202, 33.204, or 33.205, as added by this bill, with regard to University Interscholastic League activities shall be subject to the range of penalties determined by the University Interscholastic League.

The bill provides that the commissioner shall maintain an existing telephone number and an electronic mail address to allow a person to report a violation of Subchapter F. Each school that offers an extracurricular athletic activity shall prominently display at the administrative offices of the school such telephone number and electronic mail address.

The bill provides that a school that offers an extracurricular athletic activity shall provide to each student participating in an extracurricular athletic activity and to the student's parent or guardian a copy of the text of Sections 33.201-33.207, as added by this bill, and a copy of the University Interscholastic League's parent information manual. Such documents may be provided in an electronic format unless otherwise requested by a student, parent, or guardian.

The bill provides that the University Interscholastic League shall incorporate the provisions of Sections 33.203-33.207, as added by this bill, into the league's constitution and contest rules.

The bill provides that Subchapter F does not waive any liability or immunity of a school district or its officers or employees. Such subchapter does not create any liability for or a cause of action against a school district or its officers or employees.

The bill provides that a person who volunteers to assist with an extracurricular activity is not liable for civil damages arising out of an act or omission relating to the requirements under Section 33.205, as added by this bill, unless the act or omission is willfully or wantonly negligent.

The bill provides that Subchapter F, Chapter 33, Education Code, as added by the Act, applies beginning with the 2008-2009 school year.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill provided that the "Preparticipation Physical Evaluation-Medical History" form must contain the following statement: "An individual answering in the affirmative to any question relating to a possible cardiovascular health issue, as identified on the form, should be restricted from further participation until the individual is examined and cleared by a physician, physician assistant, chiropractor, or nurse practitioner. Ultimately, the individual may need to be evaluated by a cardiologist and/or undergo cardiac testing (including an echocardiogram and/or other heart-related examination) based on the assessment by the primary care physician." The substitute changed the last word of the statement from "physician" to "provider."

The original bill provided that on request, a school shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for the school who is required to receive safety training described by Section 33.202. The substitute provides that in accordance with Chapter 552, Government Code, a school shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for the school who is required to receive safety training described by Section 33.202.

The original provided that a school campus that is determined by the school's superintendent or director to be out of compliance with Section 33.202, 33.204, or 33.205 shall be subject to the range of penalties determined by the University Interscholastic League. The substitute provides that a school campus that is determined by the school's superintendent or director to be out of compliance with Section 33.202, 33.204, or 33.205 with regard to University Interscholastic League activities shall be subject to the range of penalties determined by the University Interscholastic League.