

BILL ANALYSIS

C.S.H.B. 3476
By: Paddie
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Each year in Texas thousands of individuals and their sponsoring organizations collectively dedicate hundreds of thousands of hours to train for, plan, administer, and officiate various sporting events in communities all across the state. In addition, participants, coaches, and organizers of those sporting events are generally engaged in the actual sporting event at the time it is held. Often, however, the sponsoring organization of the event or the sponsoring organization for the sports officials for the event are not actually in attendance and are not charged with administering the competition.

Interested parties assert that in most instances individuals who are directly participating in some manner in the sports competition are inherently aware of the various aspects and potential dangers of the event and that those individuals are also acutely aware of the nuances of the sport itself and of the activities surrounding participation in that particular competition. The parties contend that such participants and others involved in the actual sporting competition should be reasonably responsible for their own actions and that, barring negligence, should not place unwarranted liability on individuals who sponsor or officiate the events. C.S.H.B. 3476 seeks to establish realistic protections for officials and organizations against frivolous claims.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3476 amends the Civil Practice and Remedies Code to grant certain sports officials who are engaged in an athletic competition immunity from civil liability, including personal injury, wrongful death, property damage, or other loss for any act, error, or omission that results from a risk inherent in the nature of the competitive activity in which the claimant chose to participate unless the act, error, or omission constitutes gross negligence or wanton, wilful, or intentional misconduct. The bill establishes that consideration of a risk as inherent in the nature of a competitive activity is dependent on the nature of the sport in question, the conduct that is generally accepted in the sport, and whether the harm occurred during the pursuit of the purposes of the competition. The bill establishes that a mere violation of the rules of play of an athletic competition or failing to call a penalty, missing a call, or failing to enforce competition rules cannot in itself form the basis for liability under the bill's provisions.

C.S.H.B. 3476 grants certain sponsoring organizations immunity from liability for an act, error, or omission of a sports official absent any new, independent, and separate act, error, or omission of the sponsoring organization that gave rise to the harm.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3476 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 94 to read as follows:

CHAPTER 94. LIABILITY OF SPORTS OFFICIALS AND ORGANIZATIONS

Sec. 94.001. DEFINITIONS. In this chapter:

(1) "Sports official" means a person who officiates, judges, or in any manner enforces contest rules in any official capacity with respect to an interscholastic, intercollegiate, or other organized amateur or professional athletic competition and includes a referee, umpire, linesman, side-judge, track or field marshal, timekeeper, or scorekeeper or any other person involved in supervising competitive play.

(2) "Athletic competition" means any competitive group or solo sporting activity and includes football, baseball, soccer, basketball, hockey, swimming, track, wrestling, bike or foot races, triathlon, equestrian competitions, golf, marksmanship competitions, darts, billiards, Frisbee golf, fishing tournaments, car racing, or any similar activity that involves any aspect of physical competition, coordination, endurance, or stamina.

(3) "Sponsoring organization" means the individual, club, association, or entity that undertakes to organize, underwrite, sanction, or promote an athletic competition.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 94 to read as follows:

CHAPTER 94. LIABILITY OF SPORTS OFFICIALS AND ORGANIZATIONS

Sec. 94.001. DEFINITIONS. In this chapter:

(3) "Sports official" means a person who officiates, judges, or in any manner enforces contest rules in any official capacity with respect to:

(A) an interscholastic, intercollegiate, or other organized amateur athletic competition and includes a referee, umpire, linesman, side judge, track or field marshal, timekeeper, or scorekeeper or any other person involved in supervising competitive play; or

(B) any rodeo, livestock show, or related event or competition.

(1) "Athletic competition" means any competitive group or solo sporting activity and includes:

(A) football, baseball, soccer, basketball, hockey, swimming, track, wrestling, bike or foot races, triathlon, equestrian competitions, golf, marksmanship competitions, darts, billiards, Frisbee golf, fishing tournaments, car racing, and any similar activity that involves any aspect of physical competition, coordination, endurance, or stamina; and

(B) a rodeo, livestock show, or related event or competition.

(2) "Sponsoring organization" means the individual, club, association, or entity that undertakes to organize, underwrite, sanction, or promote:

(A) an interscholastic, intercollegiate, or other organized amateur athletic competition; or

(B) any rodeo, livestock show, or related event or competition.

Sec. 94.002. LIABILITY OF SPORTS OFFICIAL. (a) A sports official who is engaged in an athletic competition is not liable for civil damages, including personal injury, wrongful death, property damage, or other loss related to any act, error, or omission that results from a risk inherent in the nature of the competitive activity in which the claimant chose to participate unless the act, error, or omission constitutes: (1) gross negligence; or (2) wanton, wilful, or intentional **conduct**.

(b) Whether a risk is inherent in the nature of a competitive activity is dependent upon: (1) the nature of the sport in question; (2) the conduct that is generally accepted in the sport; and (3) whether the harm occurred during the pursuit of the purposes of the competition. (c) A mere violation of the rules of play of an athletic competition or failing to call a penalty, missing a call, or failing to enforce competition rules cannot in itself form the basis for liability under this chapter.

Sec. 94.003. LIABILITY OF SPONSORING ORGANIZATION.

SECTION 2. Chapter 94, Civil Practice and Remedies Code, as added by this Act, applies only to an act, error, or omission that occurs on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Sec. 94.002. LIABILITY OF SPORTS OFFICIAL. (a) A sports official who is engaged in an athletic competition is not liable for civil damages, including personal injury, wrongful death, property damage, or other loss related to any act, error, or omission that results from a risk inherent in the nature of the competitive activity in which the claimant chose to participate unless the act, error, or omission constitutes: (1) gross negligence; or (2) wanton, wilful, or intentional **misconduct**.

(b) Whether a risk is inherent in the nature of a competitive activity is dependent upon: (1) the nature of the sport in question; (2) the conduct that is generally accepted in the sport; and (3) whether the harm occurred during the pursuit of the purposes of the competition. (c) A mere violation of the rules of play of an athletic competition or failing to call a penalty, missing a call, or failing to enforce competition rules cannot in itself form the basis for liability under this chapter.

Sec. 94.003. LIABILITY OF SPONSORING ORGANIZATION.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.