

CHAPTER 409  
FORMERLY  
HOUSE BILL NO. 404  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLES 16 AND 29 OF THE DELAWARE CODE RELATING TO CONCUSSION PROTECTION IN YOUTH ATHLETIC ACTIVITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 16. Part II of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 30J. CONCUSSION PROTECTION IN YOUTH ATHLETIC ACTIVITIES ACT

§3001J. Short title.

This chapter shall be known and may be cited as the “Concussion Protection in Youth Athletic Activities Act”.

§3002J. Purpose.

The purposes of this chapter are to protect minors participating in athletic activities who manifest symptoms of concussion, increase recognition of the symptoms of concussion through training and education, and establish standards for return to play.

§3003J. Definitions.

For purposes of this chapter:

(a) “Athlete” means a person who engages in athletic activity who is less than 18 years of age.  
(b) “Athletic activity” means participation of an athlete in an athletic program or event with on-site coach oversight occurring in the State , including practice or competition, which is:

(1) organized or primarily sponsored by a public, for-profit, or non-profit organization, including a club, league, or association;

(2) a significant concussion risk activity;

(3) not regulated by the Delaware Interscholastic Athletic Association pursuant to Chapter 3 of Title 14 of the Delaware Code;

(4) not part of a school-sponsored field day, supervised recess, gym or physical education class; and

(5) not part of a college or university-sponsored program or event involving its students.

(c) “Concussion” means a traumatic injury to the brain causing a change in a person’s mental status at the time of injury, such as feeling dazed, disoriented, or confused, which may or may not involve a loss of consciousness, resulting from:

(1) a fall;

(2) a blow or jolt to the head or body;

(3) the shaking or spinning of the head or body; or

(4) the acceleration or deceleration of the head.

(d) “Council” means the State Council for Persons with Disabilities.

(d) “Division” means the Division of Public Health.

(e) “Health care provider” means a licensed physician (Doctor of Medicine or Doctor of Osteopathic Medicine) or such other licensed healthcare professional as may be designated by the Division, in consultation with the Council, through regulation.

(f) “Official” means an umpire, referee, or other official who is actively engaged in the officiating of a significant concussion-risk activity.

(g) “Significant concussion risk activity” means football, rugby, soccer, basketball, lacrosse, field hockey, ice hockey, wrestling, volleyball, martial arts, combative sports, gymnastics, baseball, softball, cheerleading, and such other athletic activities as may be identified by the Division through regulation developed in consultation with the Council as statistically correlated with a significant risk of concussion.

§3004J. Concussion protection.

(a) An athlete who is suspected of sustaining a concussion in an athletic activity shall be immediately removed from physical participation in the athletic activity and shall not return to that athletic activity on the same day.

(b) An athlete who has been removed from an athletic activity may not return to physical participation in an athletic activity until evaluated by a health care provider and the athlete receives written clearance to return to physical participation in an athletic activity from the evaluating health care provider.

(c) The coach or Official responsible for an athlete's removal shall ensure that prompt notice is provided to the athlete's parent or guardian of both the removal and medical clearance requirement.

§3005J Materials development and distribution.

Before an athlete may participate in an athletic activity, the organizing entity shall provide a concussion information sheet published by the Council to the athlete and the parent or guardian of the athlete. The athlete and the parent or guardian of the athlete shall sign a statement acknowledging receipt of the information sheet and return it to the organizing entity before the athlete shall be allowed to participate in the athletic activity. For recurrent or on-going athletic activity, the provision of the information sheet and return of the signed acknowledgment shall be completed annually.

§3006J Coach and official training.

Each on-site official and coach responsible for selection of participants for an athletic activity shall complete initial and periodic concussion training consistent with a schedule and content standards published by the Council. The schedule and content standards shall not exceed any coach or official concussion training requirements adopted by the Delaware Interscholastic Athletic Association and shall include the opportunity to complete verifiable training online.

§3007J Regulations.

The Division, in consultation with the Council and other stakeholders, may promulgate regulations to implement §§ 3003J(f) and (g) of this chapter.

§3008J Exclusion of application of chapter.

The requirements of §§3005J and 3006J of the chapter shall not apply to coaches, athletes, officials, parents and guardians of visiting teams or groups of participants from outside the State.

§3009J Annual report.

The Council may include in its annual report information concerning implementation of this chapter obtained through surveys, the Internet, and other sources.

Section 2. Amend §8210(b)(10), Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

(10) Serve as the primary brain injury council for the State. In furtherance of this role, the Council shall:

a. Fulfill the duties and responsibilities set forth in paragraphs (b)(1) through (8) of this section with respect to persons with brain injuries;

b. Fulfill Council duties and responsibilities identified in the Concussion Protection in Youth Athletic Activities Act, codified at Chapter 30J of Title 16; and

c. Maintain a standing brain injury committee to facilitate prevention and centralized interdisciplinary planning, assessment and an improved service delivery system for individuals with brain injury comprised of the following members, or designees of such members:

1. Director of the Division of Public Health;
2. Director of the Division of Developmental Disabilities Services;
3. Director of the Division of Substance Abuse and Mental Health;
4. Director of the Division of Aging and Adults with Disabilities;
5. Director of the Division of Prevention and Behavioral Health Services;
6. Director of Division of Vocational Rehabilitation;
7. Exceptional Children Director of Department of Education;

8. Chair of Governor's Advisory Council for Exceptional Citizens;

9. Chair of Developmental Disabilities Council;

10. Minimum of 3 survivors of brain injury or family members of such individuals; and

11. Representatives of prevention, planning, veterans and service delivery organizations appointed by the Council, including a representative of the state chapter of the Brain Injury Association of America and a representative of the "protection and advocacy agency" as defined in §1102 of Title 16.

Section 3. This Act shall become effective one year after its enactment into law.

Approved September 06, 2016