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(Original Signature of Member)

109TH CONGRESS
1ST SESSION

H. R. _____

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

Mr. SOUDER introduced the following bill; which was referred to the Committee on _____

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 2005”.



1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

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

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

18 (3) Young people who participate in school
19 sports and other amateur competition have lower
20 levels of obesity.

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

24 (5) Playing rules in amateur sports are nec-
25 essary to provide the opportunity for young people



1 to participate in age- and skill level-appropriate com-
2 petition.

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

17 (7) Rules makers have been the target of an in-
18 creasing number of lawsuits claiming negligence due
19 to the adoption, or failure to adopt, particular rules
20 for amateur sports.

21 (8) Repeatedly defending claims will have a det-
22 rimental impact on the ability of rules makers to
23 continue to provide these services, and will discour-
24 age the best and brightest coaches, officials, and ad-
25 ministrators from serving on rules committees. Addi-



1 tionally, some children may lose the opportunity to
2 participate in organized sports if higher insurance
3 premiums compel amateur athletic organizations to
4 raise fees.

5 **SEC. 3. DEFINITIONS.**

6 In this Act:

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

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

17 (3) **NONECONOMIC LOSS.**—The term “non-
18 economic loss” means any loss resulting from phys-
19 ical and emotional pain, suffering, inconvenience,
20 physical impairment, mental anguish, disfigurement,
21 loss of enjoyment of life, loss of society and compan-
22 ionship, loss of consortium (other than loss of do-
23 mestic service), hedonic damages, injury to reputa-
24 tion, and all other nonpecuniary losses of any kind
25 or nature.



1 (4) NONPROFIT ORGANIZATION.—The term
2 “nonprofit organization” means—

3 (A) any organization which is described in
4 section 501(c)(3) of the Internal Revenue Code
5 of 1986 and exempt from tax under section
6 501(a) of such Code; or

7 (B) any not-for-profit organization which
8 is organized and conducted for public benefit
9 and operated primarily for charitable, civic,
10 educational, religious, welfare, or health pur-
11 poses.

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

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



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

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

10 (1) the nonprofit athletic organization was act-
11 ing within the scope of the organization's duties at
12 the time of the adoption of the rules at issue;

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

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

23 (b) RESPONSIBILITY OF EMPLOYEES, AGENTS, AND
24 VOLUNTEERS TO NONPROFIT ATHLETIC ORGANIZA-
25 TIONS.—Nothing in this section shall be construed to af-
26 fect any civil action brought by any nonprofit athletic or-



1 ganization against any employee, agent, or volunteer of
2 such organization.

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

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

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

17 (3) A State law that makes a limitation of li-
18 ability inapplicable if the civil action was brought by
19 an officer of a State or local government pursuant
20 to State or local law.

21 (d) NONAPPLICABILITY TO CERTAIN CLAIMS.—The
22 limitation on liability provided by subsection (a) does not
23 apply to an action or claim arising out of a Federal, State,
24 or local antitrust, labor, environmental, defamation,
25 tortious interference of contract law, or civil rights law,



1 or any other Federal, State, or local law providing protec-
2 tion from discrimination.

3 **SEC. 5. PREEMPTION.**

4 This Act preempts the laws of any State to the extent
5 that such laws are inconsistent with this Act, except that
6 this Act shall not preempt any State law that provides
7 additional protection from liability relating to the rule-
8 making activities of nonprofit athletic organizations.

9 **SEC. 6. EFFECTIVE DATE.**

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

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

