

Raised Bill 5141
Public Hearing: 2-16-15

TO: MEMBERS OF THE TRANSPORTATION COMMITTEE
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)
DATE: FEBRUARY 16, 2016

RE: OPPOSITION TO IMMUNITY PROVISION IN HB5141, AAC CONCUSSIONS AND YOUTH ATHLETIC ACTIVITIES CONDUCTED ON PUBLIC ATHLETIC FIELDS

CTLA is supportive of notifying children and parents of the dangers inherent in youth athletic activities. CTLA opposes the expansion of immunity in this bill. The intended purpose of providing this important information to children and parents is to be sure each understands the serious nature of concussions and the profound effect concussions can have on a person's health. The failure to provide this information in contravention of the express intent and purpose of this bill will likely result in a failure of some children and parents to appreciate the serious adverse health risks of concussions and therefore may subject children to further worsening injury. Immunity from civil liability is not warranted under these circumstances and removes incentive for compliance. Incentives for compliance are important to assure that all reasonable efforts are made to communicate this important information in accordance with the bill's provisions. Further, the bill would create an unreasonable expansion of our immunity laws, which are only extended to private citizens where there is some broad overarching public benefit.

As written the law protects a person who, in good faith and in compliance with the bill, informs children and parents of the dangers of youth athletic activities. Courts are currently examining whether it is negligent not to communicate these important risks. No person, now or under the mandate outlined under this bill is liable for his or her reasonable, i.e. non-negligent conduct. The immunity portion of this bill, however, protects negligence, and removes any incentive to follow the other provisions of the bill.

Immunity for private citizens in Connecticut has been reserved for a very few instances where citizens open their property to the public or for public benefit. e.g. CGS § 52-557(f) (Granting immunity to land owners who allow public to use land for recreational purposes); CGS § 52-557(j)(k) (Granting immunity to land owners allowing recreation: snowmobile, motorcycle, etc. and those allowing public to harvest fireworks). The actions covered by this bill do not fit within those limitations. The CTLA respectfully contends that these immunity provisions are unnecessary and weaken the bill and its important purpose. Further, it is CTLA's recommendation that section 1(d) of the bill be removed entirely.

WE URGE YOU TO OPPOSE THE IMMUNITY PROVISIONS OF HB5141. Thank you.