



INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

The information included in this column is for educational and informational purposes only. Please consult an attorney regarding specific legal questions.

Texas' New Football Helmet Law

BY MARK ANDERSON

With numerous concussion lawsuits against the NFL increasingly reported in sports headlines, it is little wonder that parents of school-aged football players are increasingly concerned about their kids' safety. According to the National Center for Injury Prevention, it is estimated that as many as 47 percent of all high school football players suffer a concussion each year. Concussions can be extremely serious injuries and are considered a form of traumatic brain injury. Football players who suffer multiple concussions or repeated blows to the head throughout their athletic career, even at the high school level, are at risk of suffering permanent brain damage. The effects of this damage range from behavioral and emotional disorders to full body paralysis. Furthermore, it is believed that 90 percent of teenage football concussions occur during *practice* sessions, not the actual games.

In an attempt to reduce the number of concussions among high school athletes, the Texas Legislature approved several new laws last year that became effective at the beginning of the 2012-13 school year. One of the new laws, Education Code § 33.094, prohibits school districts from using football helmets more than 16 years old. This new law also requires school districts to recondition all football helmets that are older than 10 years at least once every two years. This law applies to all levels of a district's football program.





DOES A FOOTBALL HELMET ACTUALLY REDUCE A PLAYER'S RISK OF CONCUSSION?

Unfortunately, the latest research has shown that traditional football helmets may not protect players from the risk of concussion as much as previously thought. Hard-shell helmets such as those approved by the National Operation Committee on Standards of Athletic Equipment were designed specifically to withstand impacts that could cause skull fractures. Recently, it was discovered that numerous minor blows to the head, which compound over a long period of time, can also directly result in chronic traumatic encephalopathy, a progressive degenerative neurological disease.

WHAT DOES "RECONDITIONING" A FOOTBALL HELMET ACTUALLY MEAN?

Texas law defines "reconditioning" as smoothing out scratches on the exterior of the helmet, washing and sanitizing the inside, inspecting and replacing the face-guard if necessary, and replacing all hardware on the helmet. It does not involve testing whether the helmet complies with safety standards. It is estimated that the costs associated with refurbishing a helmet are between \$25 and \$50 each. The cost for purchasing a new helmet can range from \$150 to \$300.

WHAT INFORMATION IS MADE AVAILABLE TO STUDENTS AND THEIR PARENTS REGARDING THE HISTORY OF THE HELMETS?

Education Code § 33.094 requires all school districts in Texas to maintain transparent records detailing the age of each football helmet and the dates on which it was reconditioned. School districts are obligated to make this information available to all student-athletes and their parents. Parents can contact their local school district to find out how to access these records. A standard Freedom of Information Act request should work if the school district is not forthcoming with the data.

HOW SEVERE OF AN IMPACT COULD CAUSE BRAIN DAMAGE?

Any impact to the head can trigger a gradual or undiagnosed change in the victim's brain function. Researchers at Purdue University even found that head impacts not resulting in a concussion could impair athletes' brain function. Additional risk is brought by football players using their helmet as armament — charging head-first into opposing players.

HOW DOES HEALTH & SAFETY § 38.151, ET SEQ. (THE CONCUSSION PROTOCOL LAW) RELATE TO EDUCATION CODE § 33.094 (FOOTBALL HELMET SAFETY REQUIREMENTS)?

While Education Code § 33.094 is intended to reduce the risk of concussions among football players specifically, Health & Safety § 38.151, *et seq.*, is concerned with the well-being of student-athletes from any sport who is suspected of suffering a concussion while participating in a sporting activity. Students and their parents/guardians must sign an acknowledgement form confirming that they have received and read an information packet on concussions before being able to participate in *any* interscholastic athletic activity. If a student suffers a concussion, he or she must be removed from practice and competition immediately and may not participate again until a doctor has granted permission to do so.

The exact protocol for dealing with concussions may vary between individual school districts, but Health & Safety § 38.156 stipulates that players can be removed from play by either a coach, doctor, or concerned parent. The student will be permitted to resume participation only after being evaluated by a doctor, the doctor has approved the student to return to play, and the student and their parent or guardian have signed a consent form to show they understand the risks in returning to play.

WHAT ELSE CAN PARENTS DO TO ENSURE THEIR CHILD-ATHLETE'S SAFETY?

Make sure that both you and your child research and understand the risks of any high-contact sport, as well as the symptoms of concussion. Some parents may want to investigate purchasing their child a new helmet rather than relying on a reconditioned one. The University Interscholastic League says that so long as all helmets comply with NCAA safety standards, such an approach is acceptable. *



MARK ANDERSON is founder of the Anderson Law Firm in Fort Worth. He is certified in Personal Injury Trial Law by the Texas Board of Legal Specialization.

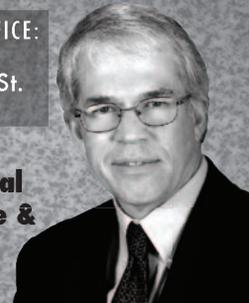
HERRING & IRWIN, LLP

CHARLES HERRING JR. :

- 37 Years of Trial Experience
- Board Certified in Civil Trial Law
- Chairman, Texas Supreme Court Task Force on Sanctions (1991-96)
- Chairman, State Bar of Texas Committee for the Prevention of Legal Malpractice (1995-96)

PRINCIPAL OFFICE:
Austin, TX
701 Brazos St.
Suite 500

Author,
"Texas Legal
Malpractice &
Lawyer
Discipline"



GRIEVANCE DEFENSE & LEGAL MALPRACTICE

herring-irwin.com | 512.320.0665

BY APPOINTMENT: Houston, TX
2500 East T.C. Jester, Suite 285