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S.B. 288
133rd General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsor: Sen. Gavarone

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SUMMARY

- Generally prohibits a public or nonpublic school or an interscholastic athletics conference or organization from adopting a rule, bylaw, or other regulation that prohibits or creates an obstruction to wearing religious apparel when competing or participating in interscholastic athletics or extracurricular activities.
- Permits administrators or officials of an athletic or extracurricular event to limit the wearing of religious apparel if a legitimate danger to participants is identified but requires the administrator or official to offer all reasonable accommodations to the participant.
- Provides civil immunity for schools, school districts, interscholastic conferences, and organizations and for their employees related to decisions regarding wearing religious apparel during competition or participation in athletic or extracurricular events.
- Specifies that whoever violates the prohibition against creating obstructions to wearing religious apparel is subject to a civil action for damages, injunctive relief, or any other appropriate relief.

DETAILED ANALYSIS

Prohibiting obstructions to wearing religious apparel in sports

The bill generally prohibits a public or nonpublic school, school district, or interscholastic athletics conference, or organization that regulates interscholastic athletics from adopting a rule, bylaw, or other regulation that prohibits or creates any obstruction to wearing religious apparel when competing or participating in interscholastic athletics or extracurricular activities. This prohibition also applies to requirements that participants obtain advanced approval,

written waivers, or any other permission. Religious apparel includes headwear, clothing, jewelry, or other coverings that signify the observance of a sincerely held religious belief.¹

The bill, however, permits administrators or officials of an athletic or extracurricular event to limit the wearing of religious apparel if a legitimate danger to participants is identified due to wearing religious apparel. If such a danger is identified, the administrator or official of the event or activity must offer all reasonable accommodations to the participant wearing religious apparel.²

Civil actions authorized

The bill authorizes a civil action for damages, injunctive relief, or any other appropriate relief against anyone who violates the bill's prohibition on creating obstructions to wearing religious apparel during competition or participation in interscholastic athletics or extracurricular activities.³

Qualified immunity

On the other hand, the bill also provides a qualified immunity in a civil action for money damages for a school, school district, the members of a district board or school governing authority, the district's or school's employees, and the members or employees of an interscholastic athletics conference or organization for injury, death, or other loss allegedly arising from executing duties under the bill. The immunity does not apply if the execution of duties or omission thereof constitutes willful or wanton misconduct.

The bill also specifies that its qualified immunity from liability does not eliminate, limit, or reduce any other immunity or defense that may apply under the Political Subdivision Tort Liability Law or any other provision of the Revised Code or under the common law of Ohio.⁴

Background – OHSAA policy on religious headwear

A December 2019 sports uniform regulation of the Ohio High School Athletics Association (OHSAA) regarding religious headwear states that if a head coach represents to the referee in advance of the start of a competition that a player wishes not to expose his or her uncovered head, the referee must approve a covering or wrap, provided that:

1. It does not "fundamentally alter the sport";
2. It is not abrasive, hard, or dangerous to another participant;
3. It is not attached in such a way that it is likely to come off during play; and

¹ R.C. 5513.5317(A).

² R.C. 5513.5317(B).

³ R.C. 5513.5317(D).

⁴ R.C. 3313.5317(C).

4. It is not “deemed” to be unsporting or offensive.⁵

The regulation also states that, for other exceptions not addressed above, school administrators and head coaches must contact the OHSAA sport administrator via email well in advance of the competition date to discuss whether a waiver is available.

HISTORY

Action	Date
Introduced	02-26-20
Reported, S. Education	06-10-20
Passed Senate (31-0)	06-24-20

S0288-PS-133/ts

⁵ OHSAA. Head Decorations and Headwear Approved by Board of Directors December 5, 2019, as part of General Sports Regulation 17 – Athletic Uniforms.