

1 Introduced by Senator Mullin

2 Referred to Committee on

3 Date:

4 Subject: Education; recreation; municipalities; health

5 Statement of purpose: In order to support active living, reduce obesity,

6 increase community safety, maximize community resources, and promote

7 community support for public schools, This bill proposes to encourage school

8 districts to make school property available to community members during non-

9 school hours outside the school day for non-school, for recreational activities

10 by, among other things, limiting a school district's liability for loss or injury

11 occurring during such use and requiring the department of education to prepare

12 a model shared use agreement and other documents to support and promote

13 non-school recreational use of school buildings and grounds, property.

14 An act relating to non-school, recreational use of public school-school
15 buildings and grounds, property

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 16 V.S.A. §§ 131 and 135 are amended to read:

18 § 131. DEFINITIONS

19 For the purposes of this subchapter, "comprehensive health education"

20 means a systematic and extensive elementary and secondary educational

Comment [TLCS61]: May want to define "property" in the definitions so it is clear if it also includes school facilities and equipment, which referenced in the language. If "property" is defined to include facilities and equipment, then throughout, it may not be necessary to include the entire phrase of "property, facilities, and equipment."

1 program designed to provide a variety of learning experiences based upon
2 knowledge of the human organism as it functions within its environment. The
3 term includes the study of:

4 * * *

5 (10) Nutrition and the importance of physical activity; and

6 * * *

7 § 135. PROGRAM DEVELOPMENT

8 * * *

9 (b) Any school district board or supervisory union board may establish a
10 comprehensive health education community advisory council to assist the
11 school board in developing and implementing comprehensive health education.
12 The school board shall provide public notice to the community to allow all
13 interested parties to apply for appointment. The school board shall endeavor to
14 appoint members that represent various points of view within the community
15 regarding comprehensive health education and that represent different sectors
16 of the community, such as students, parents, educators, administrators, public
17 health, food service, parks and recreation, agriculture and/or community
18 members. The council's duties may include assisting the board to promote
19 non-school, community recreational use of school property during non-school
20 hours.

21 Sec. 2. 16 V.S.A. § 563 is amended to read:

Comment [SHIP2]: Here are some additional folks to include.

Comment [T3]: By just having “and” it could suggest that all of these different sectors of the community must be chosen, which conflicts with the “such as”.

Comment [SHIP4]: Please see comment below about non-school activities.

Comment [T5]: This should be defined somewhere

1 § 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE IF BUDGET
2 EXCEEDS BENCHMARK AND DISTRICT SPENDING IS ABOVE
3 AVERAGE

4 The school board of a school district, in addition to other duties and
5 authority specifically assigned by law:

6 * * *

7 (30) May make available school buildings and grounds, including property,
8 facilities and equipment, for specified public purposes if such purposes appear,
9 in the judgment of the board, to be in the best interests of the district and are an
10 efficient, economical, and appropriate use of the property facilities and
11 equipment, and is encouraged to make public school buildings and grounds,
12 including property, facilities, and equipment available open to community
13 members outside the school day during non-school hours for non-school,
14 recreational activities in order to support active living, reduce obesity, increase
15 community safety, maximize community resources, and promote community
16 support for public schools.

17 * * *

18 Sec. 3. 16 V.S.A. § 568 is added to read:

19 § 568. COMMUNITY RECREATIONAL USE OF SCHOOL PROPERTY

20 A school district and its employees shall be immune from civil liability for
21 any loss or injury suffered by any a person as a result of the person's use of

Comment [T6]: May want to include sample AHA language for findings after this, and before subheading (30)

Comment [WM7]: This could be either "property" or "buildings and ground". There wasn't a clear way to say it. School property came up more in the overall law, but within the context of this statute, "buildings and grounds" seemed to fit better.

Comment [TLCS68]: Does this mean that the school board can either open up all schools within a district or none at all? Does this take away discretion from individual schools?

Comment [T9]: I would suggest removing this entire sentence because it seems like it would complicate the decision making process, and take away the authority from the individual school to make a decision.

Comment [TLCS610]: This term should be defined somewhere

Comment [TLCS611]: Throughout this, the language switches between school "property" and "facilities and equipment." If it means all three, then it should remain consistent.

Comment [T12]: I would change the order a bit here. At the beginning of this section it might be appropriate for some findings that support the need to create policy and this law. Secondly, add a definition section at least defining the terms "school property," "recreational use." Thirdly, the immunity provision and subsequent section could follow. Could use AHA sample language

Comment [SHIP13]: This is consistent with another statute, which I will also be sending, relating to a school district's duty of care to students and staff. 16 V.S.A. § 834, Duty of Care.

1 buildings and grounds, including facilities and equipment school property
2 during non-school hours outside the school day for any non-school
3 recreational purpose, unless: (a) the damage or injury is the result of the willful or
4 wanton misconduct” by the school district, or (b) as required by 16 V.S.A. § 834.
5 by any entity or individual.”

6 Sec. 4. SHARED USE AGREEMENTS

7 (a) The department of education, in consultation with the department of
8 health and the Vermont School Boards Association, shall:

9 (1) prepare a model shared use agreement to assist school districts that
10 wish to authorize non-school community recreational use of school buildings
11 and grounds, including facilities and equipment property during non-school
12 hoursoutside the school day:

13 (2) compile a list of:

14 (A) information regarding liability for loss or injury arising from the
15 community recreational use of school buildings and grounds, including
16 facilities and equipment, during non-school hours: property for non-school
17 recreational purposes;

18 (B) resources to help school districts promote non-school community
19 recreational use of school buildings and grounds, including facilities and
20 equipment, ~~property~~;

Comment [WM14]: This could be either “property” or “buildings and ground”. There wasn’t a clear way to say it. School property came up more in the overall law, but within the context of this statute, “buildings and grounds” seemed to fit better.

Comment [SHIP15]: If you chose to use “school property” above, then you can use this.

Comment [SHIP16]: This could get confusing. What about a football game? What about track practice? I think a better idea would be to link to the other statute (16 V.S.A. § 834, Duty of Care.)

Comment [SHIP17]: May want to include a definition. The definition such as this one:
Recreation: any indoor or outdoor game or physical activity, either organized or unorganized, undertaken for exercise, relaxation, diversion, sport, or pleasure.

Comment [SHIP18]: From the recreational use statute.

Comment [WM19]: This could be either “property” or “buildings and ground”. There wasn’t a clear way to say it. School property came up more in the overall law, but within the context of this statute, “buildings and grounds” seemed to fit better.

1 (C) potential community partners with which a school district might
2 enter into a shared use agreement for ~~non-school~~community recreational use
3 of school buildings and grounds, including facilities and equipment, ~~property~~;
4 and

5 (D) funding opportunities available to help school districts promote
6 community recreational use of school buildings and grounds, including
7 facilities and equipment~~non-school, recreational use of school property.~~

8 (b) On or before September 1, 2012, the department of education shall:

9 (1) post the information required in subsection (a) of this section on its
10 website;

11 (2) include links on its website to information about existing school
12 district policies or programs that promote community recreational use of
13 school buildings and grounds, including facilities and equipment~~non-school,~~
14 ~~recreational use of school property.~~

15 (c) The department of education shall review the information required by
16 this section no less than every two years and update it as necessary.

17 Sec. 5. EFFECTIVE DATE

18 This act shall take effect on passage.