

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/House Bill No. 447, Page 15, Section 167.126, Line 130,

2 by inserting after all of said line the following:

3 "173.280. 1. As used in this section, the following
4 terms mean:

5 (1) "Institutional marketing associate", any third
6 party entity that enters into an agreement with a
7 postsecondary educational institution or its intercollegiate
8 athletics or sports program to market and/or promote the
9 postsecondary educational institution or its intercollegiate
10 athletics or sports program, or to otherwise act on behalf
11 of the postsecondary educational institution or the
12 postsecondary educational institution's intercollegiate
13 athletics or sports program. This term does not include a
14 regulatory body, postsecondary educational institution,
15 postsecondary educational institution staff member, or their
16 respective officers, directors, managers, owners, or
17 employees;

18 (2) "Postsecondary educational institution", any
19 campus of a public or private institution of higher
20 education in this state that is subject to the coordinating
21 board for higher education under section 173.005;

22 [(2)] (3) "Student athlete", an individual who is
23 eligible to participate in, participates in, or has
24 participated in an intercollegiate sport for a postsecondary
25 educational institution. Student athlete shall not be
26 construed to apply to an individual's participation in a

27 college intramural sport or in a professional sport outside
28 of intercollegiate athletics;

29 ~~[(3)]~~ (4) "Third party", any individual or entity,
30 including any athlete agent, other than a postsecondary
31 educational institution, athletic conference, or athletic
32 association.

33 2. (1) No postsecondary educational institution shall
34 uphold any rule, requirement, standard, or other limitation
35 of an athletic association or athletic conference that
36 prevents a student of that institution from fully
37 participating in intercollegiate athletics without penalty
38 and earning compensation as a result of the use of the
39 student's name, image, likeness rights, or athletic
40 reputation. A student athlete earning compensation from the
41 use of a student's name, image, likeness rights, or athletic
42 reputation shall not affect such student athlete's grant-in-
43 aid or stipend eligibility, amount, duration, or renewal.

44 (2) No postsecondary educational institution shall
45 interfere with or prevent a student from fully participating
46 in intercollegiate athletics or obtaining professional
47 representation in relation to contracts or legal matters
48 relating to earning compensation as a result of the use of
49 the student athlete's name, image, likeness rights, or
50 athletic reputation, including, but not limited to,
51 representation provided by athlete agents, financial
52 advisors, or legal representation provided by attorneys.

53 3. A grant-in-aid or stipend from the postsecondary
54 educational institution in which a student is enrolled shall
55 not be construed to be compensation for use of the student's
56 name, image, likeness rights, or athletic reputation for
57 purposes of this section, and no grant-in-aid or stipend
58 shall be revoked or reduced as a result of a student earning
59 compensation under this section.

60 4. (1) No student athlete shall enter into an
61 apparel, equipment, or beverage contract providing
62 compensation to the athlete for use of the athlete's name,
63 image, likeness rights, or athletic reputation if the
64 contract requires the athlete to display a sponsor's
65 apparel, equipment, or beverage or otherwise advertise for
66 the sponsor during official team activities if such
67 provisions are in conflict with a provision of the
68 postsecondary educational institution's current licenses or
69 contracts.

70 (2) (a) Except with the prior written consent of the
71 student athlete's postsecondary educational institution, a
72 student athlete shall not enter into a contract for
73 compensation for the use of such student athlete's name,
74 image, likeness rights, or athletic reputation, if such
75 institution determines that a term of the contract conflicts
76 with a term of a contract to which such institution is a
77 party.

78 (b) A postsecondary educational institution or any
79 officer, director, or employee of such institution,
80 including but not limited to a coach, member of the coaching
81 staff, or any individual associated with the [institutions]
82 institution's athletic department, [may identify] shall have
83 the right to identify, create, facilitate, negotiate,
84 support, enable, or otherwise assist with opportunities for
85 a student athlete to earn compensation from a third party,
86 including an institutional marketing associate, for the use
87 of the student athlete's name, image, likeness rights, or
88 athletic reputation, provided that such individual shall not:

89 a. [Serve as the athlete's agent;
90 b.] Receive compensation from the student athlete or a
91 third party for facilitating [or], enabling, or assisting
92 with such opportunities;

93 [c.] b. Attempt to influence an athlete's choice of
94 professional representation related to such opportunities; or

95 [d.] c. Attempt to reduce such athlete's opportunities
96 from competing third parties [; or

97 e. Be present at any meeting between a student athlete
98 and a third party who provides for a student athlete's
99 compensation, where the student athlete's name, image,
100 likeness rights, or athletic reputation contract for
101 compensation is negotiated or completed].

102 (c) The provisions of this section shall not be
103 construed to qualify a student athlete as an employee of a
104 postsecondary educational institution.

105 (3) Before any contract for compensation for the use
106 of a student athlete's name, image, likeness rights, or
107 athletic reputation, or for professional representation, is
108 executed, and before any compensation is provided to the
109 student athlete in advance of a contract, the student
110 athlete shall disclose that contract to his or her
111 postsecondary educational institution in a manner prescribed
112 by such institution.

113 (4) A postsecondary educational institution or any
114 officer, director, or employee of such institution [or
115 entity] shall not compensate a student athlete, prospective
116 student athlete, or the family of such individuals, [or
117 cause compensation to be directed to a prospective student
118 athlete, or the family of a student athlete or the family of
119 a prospective student athlete,] for the use of such student
120 athlete or prospective student athlete's name, image,
121 likeness rights, or athletic reputation, unless otherwise
122 permitted by institutional policy and a collegiate athletics
123 association that the postsecondary educational institution
124 is a member of.

125 (5) (a) As used in this subdivision, "unique
126 identifier" means any of the following developed or adopted
127 for marketing or promotional purposes by a postsecondary
128 educational institution or a third party:

- 129 a. Seal;
130 b. Logo;
131 c. Emblem;
132 d. Motto;
133 e. Special symbol;
134 f. Institutional colors;
135 g. Modifier or descriptor;
136 h. Design;
137 i. Patentable or copyrightable item, material, or
138 information; or
139 j. Other item, material, or information that
140 identifies and is recognizable as unique to such
141 postsecondary educational institution or third party.

142 (b) A postsecondary educational institution or a third
143 party shall develop and adopt a process for granting to a
144 student athlete, or to a third party for use with a student
145 athlete, a license to use such institution's or third
146 party's unique identifiers when earning or attempting to
147 earn compensation from the use of such student athlete's
148 name, image, likeness rights, or athletic reputation
149 consistent with its policies regarding licensing of its
150 unique identifiers.

151 (c) A postsecondary educational institution or a third
152 party may charge a reasonable fee for a license to use a
153 unique identifier under this subdivision.

154 (d) A postsecondary educational institution, or a
155 third party, may impose requirements that a student athlete
156 granted a license under this subdivision refrain from using

157 such unique identifier in a manner that the institution in
158 its sole discretion determines:

159 a. Is reasonably considered to be inconsistent with
160 such institution's or third party's values or mission;

161 b. Adversely affects such institution's or third
162 party's image;

163 c. Negatively impacts or inappropriately reflects upon
164 the reputation or religious, moral, or ethical standards of
165 such institution or third party;

166 d. Violates such institution's or third party's code
167 of conduct or similar requirements; or

168 e. Conflicts with a provision of such institution's or
169 third party's current licenses or contracts.

170 5. No contract of a postsecondary educational
171 institution's athletic program shall prevent a student
172 athlete from receiving compensation for using the student
173 athlete's name, image, likeness rights, or athletic
174 reputation for a commercial purpose when the athlete is not
175 engaged in official mandatory team activities that are
176 recorded in writing and can be made publicly available upon
177 request.

178 6. (1) If a private postsecondary educational
179 institution collects, retains, or maintains the terms of a
180 student athlete's contract or proposed contract detailing
181 compensation to such student athlete for the use of such
182 student athlete's name, image, likeness, or athletic
183 reputation, such postsecondary educational institution shall
184 consider such contract terms to be student governed by the
185 Family Education Rights and Privacy Act (FERPA).

186 (2) The terms of a contract or proposed contract
187 detailing compensation to a student athlete for the use of
188 such student athlete's name, image, likeness, or athletic
189 reputation shall be deemed a closed record under chapter

190 610. A public postsecondary educational institution subject
191 to this subsection may withhold or refuse to release or
192 otherwise disclose such contract terms without seeking a
193 formal opinion of the attorney general of this state as
194 authorized in section 610.027.

195 7. (1) No compensation to a student athlete for
196 earning or attempting to earn compensation from the use of
197 such student athlete's name, image, likeness rights, or
198 athletic reputation shall be conditioned on such student
199 athlete's athletic performance. Those providing
200 compensation to a student athlete for the use of his or her
201 name, image, likeness rights, or athletic reputation shall
202 have the right to condition payment of that compensation on
203 a student athlete's attendance at a particular postsecondary
204 educational institution.

205 (2) A charitable organization that qualifies as an
206 exempt organization under 26 U.S.C. Section 501(c)(3), as
207 amended, shall have the right to compensate a student
208 athlete for the commercial use of the student athlete's
209 name, image, likeness rights, or athletic reputation.

210 (3) Notwithstanding any rule of an athletic
211 association, athletic conference, or any other organization
212 with authority over varsity intercollegiate athletics,
213 institutional marketing associates shall have the right to
214 compensate a student athlete for the commercial use of the
215 student athlete's name, image, likeness rights, or athletic
216 reputation. This includes the right to compensate a student
217 athlete for the commercial use of the student athlete's
218 name, image, or likeness rights in connection with the
219 promotion of athletic events in which the student athlete
220 will or may participate, the promotion of the postsecondary
221 educational institution the student athlete attends, and the
222 promotion of the postsecondary educational institution's

223 intercollegiate athletics or sports program. Further, an
224 institutional marketing associate shall, in the event that a
225 postsecondary educational institution or its intercollegiate
226 athletics program affirmatively grants a request, have the
227 right to utilize a postsecondary educational institution's,
228 or the postsecondary educational institution's
229 intercollegiate athletics program's, content creation and
230 marketing capabilities in connection with services provided
231 for the promotion of athletic events in which a student
232 athlete will or may participate, the postsecondary
233 educational institution, or the institution's
234 intercollegiate athletics or sports program.

235 (4) Notwithstanding any rule of an athletic
236 association, athletic conference, or any other organization
237 with authority over varsity intercollegiate athletics,
238 student athletes shall have the right to receive
239 compensation from an institutional marketing associate for
240 the commercial use of their name, image, likeness rights, or
241 athletic reputation, in connection with, among other items,
242 the promotion of athletic events in which the student
243 athlete will or may participate, the promotion of the
244 postsecondary educational institution the student athlete
245 attends, and the promotion of the postsecondary educational
246 institution's intercollegiate athletics or sports program.

247 [6.] 8. (1) Postsecondary educational institutions
248 that enter into commercial agreements that directly or
249 indirectly require the use of a student athlete's name,
250 image, likeness, or athletic reputation shall [conduct a]
251 offer at least two workshops per calendar year that may
252 include topics such as financial [development program once
253 per year for their athletes] literacy, life skills, time
254 management, and entrepreneurship. The workshops may not be
255 offered in the same month and each workshop offered in a

256 calendar year must be unique and not simply a repeat of the
257 other workshop offered that year. The institution shall
258 notify all student athletes of the sessions through the
259 distribution of informational materials via email or other
260 communication methods the institution regularly uses to
261 communicate with student athletes.

262 (2) [The financial development program] The
263 educational workshops shall not include any marketing,
264 advertising, referral, or solicitation by providers of
265 financial products or services. [Such program shall, at a
266 minimum, include information concerning financial aid, debt
267 management, and a recommended budget for student athletes
268 based on the current year's cost of attendance. The
269 workshop shall also include information on time management
270 skills necessary for success as a student athlete and
271 available academic resources.]

272 [(3) Postsecondary educational institutions shall help
273 distribute informational materials for such programs as
274 needed.]

275 (4) Postsecondary educational institutions shall
276 inform their athletes of such program meetings and provide
277 appropriate meeting space.

278 7. Student athlete representation shall be by
279 attorneys or agents licensed by this state.]

280 9. An athletic association, athletic conference, or
281 any other organization with authority over varsity
282 intercollegiate athletics shall not, and shall not authorize
283 its member institutions to:

284 (1) Prevent a student athlete from receiving
285 compensation for the commercial use of the student athlete's
286 name, image, likeness rights, or athletic reputation under
287 this section;

288 (2) Penalize a student athlete for receiving
289 compensation for the commercial use of the student athlete's
290 name, image, likeness rights, or athletic reputation under
291 this section;

292 (3) Prevent a postsecondary educational institution
293 from participating in varsity intercollegiate athletics or
294 otherwise penalize a postsecondary educational institution
295 as a result of a student athlete's receipt of compensation
296 for the student athlete's name, image, likeness rights, or
297 athletic reputation under this section;

298 (4) Prevent a postsecondary educational institution
299 from establishing agreements with a third party entity to
300 act on its behalf to identify, facilitate, enable, or
301 support student athlete name, image, and likeness activities;

302 (5) Entertain a complaint, open an investigation, or
303 take any other adverse action against a postsecondary
304 educational institution or any of its employees for engaging
305 in any activity protected under this section;

306 (6) Penalize a postsecondary educational institution
307 because an institutional marketing associate compensates a
308 student athlete for use of his or her name, image, likeness
309 rights, or athletic reputation, as protected under this
310 section, or if a third party violates the collegiate
311 athletic association's rules or regulations with regard to
312 student athlete name, image, or likeness activities.

313 10. A student athlete shall have the right to obtain
314 professional representation for the purpose of securing
315 compensation for the use of his or her name, image, or
316 likeness without penalty or resulting limitation on
317 participating or effect on the student athlete's athletic
318 grant-in-aid eligibility. Professional representation shall
319 be by attorneys or agents licensed by this state. Any
320 professional representation agreement shall be in writing,

321 be executed by both parties, clearly describe the
322 obligations of the parties, and outline fees for the
323 professional representation.

324 [8.] 11. (1) Any student athlete may bring a civil
325 action against third parties that violate this section or
326 that interfere with such student athlete's earning or
327 attempting to earn compensation from the use of such student
328 athlete's name, image, likeness rights, or athletic
329 reputation for appropriate injunctive relief or actual
330 damages, or both. Such action shall be brought in the
331 county where the violation occurred, or is about to occur,
332 and the court shall award damages and court costs to a
333 prevailing plaintiff.

334 (2) Student athletes bringing an action under this
335 section shall not be deprived of any protections provided
336 under law with respect to a controversy that arises and
337 shall have the right to adjudicate claims that arise under
338 this section.

339 [9.] 12. No legal settlement shall conflict with the
340 provisions of this section.

341 [10.] 13. This section shall apply only to agreements
342 or contracts entered into, modified, or renewed on or after
343 August 28, 2021. Such agreements or contracts include, but
344 are not limited to, the national letter of intent, an
345 athlete's financial aid agreement, commercial contracts in
346 the athlete group licensing market, and athletic conference
347 or athletic association rules or bylaws.

348 14. No postsecondary educational institution's
349 employees, including athletics coaching staff, shall be
350 liable for any damages to a student athlete's ability to
351 earn compensation for the use of the student athlete's name,
352 image, or likeness resulting from decisions or actions
353 routinely taken in the course of intercollegiate athletics.

354 15. This section does not affect the rights of student
355 athletes under Title IX of the Education Amendments of 1971
356 (20 U.S.C. Section 1681 et seq.).

357 16. (1) A high school athlete who competes on an
358 interscholastic athletic team in this state that is
359 sponsored by a public school or by a private school whose
360 students compete against a public school's students may earn
361 or attempt to earn compensation from the use of such
362 athlete's name, image, likeness rights, or athletic
363 reputation as provided in this section, subject to the
364 following:

365 (a) A high school athlete shall have the right to
366 discuss earning or attempting to earn such compensation
367 before signing an athletic letter of intent or other written
368 agreement only when having discussions about potential
369 enrollment with a postsecondary educational institution in
370 this state; and

371 (b) A high school athlete shall have the right to earn
372 or attempt to earn such compensation only after signing an
373 athletic letter of intent or other written agreement to
374 enroll in a postsecondary educational institution in this
375 state.

376 (2) The discussion of, or earning or attempting to
377 earn, compensation from the use of such high school
378 athlete's name, image, likeness rights, or athletic
379 reputation as provided in this section shall not be
380 construed to be a violation of any rules and regulations a
381 high school student and high schools are required to follow
382 to maintain and protect a high school athlete's high school
383 eligibility to participate in high school athletics in this
384 state."; and

385 Further amend the title and enacting clause accordingly.