

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 80

103RD GENERAL ASSEMBLY

0755S.02C

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 173.280, RSMo, and to enact in lieu thereof two new sections relating to compensation of student athletes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 173.280, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 167.750 and 173.280, to read as follows:

167.750. 1. As used in this section, the following
2 **terms mean:**

3 **(1) "High school athlete", an individual who is**
4 **eligible to participate in, participates in, or has**
5 **participated in an interscholastic sport on an**
6 **interscholastic athletic team in this state that is**
7 **sponsored by a public school or by a private school whose**
8 **students compete against a public school's students;**
9 **(2) "Private school", the same definition as in**
10 **section 166.700;**
11 **(3) "Public school", the same definition as in section**
12 **160.011.**

13 **2. A high school athlete may earn or attempt to earn**
14 **compensation from the use of such athlete's name, image,**
15 **likeness rights, or athletic reputation as provided in this**
16 **section and section 173.280, subject to the following:**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

3. The discussion of, or earning or attempting to earn, compensation from the use of such high school athlete's name, image, likeness rights, or athletic reputation as provided in this section and section 173.280 shall not be construed to be a violation of any rules or regulations a high school student or a high school is required to follow to maintain and protect a high school athlete's high school eligibility to participate in high school athletics in this state.

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

(1) "Institutional marketing associate", any third-party entity that enters into an agreement with a postsecondary educational institution or its intercollegiate athletics or sports program to market and/or promote the postsecondary educational institution or its intercollegiate athletics or sports program, or to otherwise act on behalf of the postsecondary educational institution or the postsecondary educational institution's intercollegiate athletics or sports program. This term does not include a regulatory body, postsecondary educational institution,

13 postsecondary educational institution staff member, or their
14 respective officers, directors, managers, owners, or
15 employees;

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

20 (3) "Student athlete", an individual who is eligible
21 to participate in, participates in, or has participated in
22 an intercollegiate sport for a postsecondary educational
23 institution. Student athlete shall not be construed to
24 apply to an individual's participation in a college
25 intramural sport or in a professional sport outside of
26 intercollegiate athletics;

27 (4) "Third party", any individual or entity, including
28 any athlete agent, other than a postsecondary educational
29 institution, athletic conference, or athletic association.

30 2. (1) No postsecondary educational institution shall
31 uphold any rule, requirement, standard, or other limitation
32 of an athletic association or athletic conference that
33 prevents a student of that institution from fully
34 participating in intercollegiate athletics without penalty
35 and earning compensation as a result of the use of the
36 student's name, image, likeness rights, or athletic
37 reputation. A student athlete earning compensation from the
38 use of a student's name, image, likeness rights, or athletic
39 reputation shall not affect such student athlete's grant-in-
40 aid or stipend eligibility, amount, duration, or renewal.

41 (2) No postsecondary educational institution shall
42 interfere with or prevent a student from fully participating
43 in intercollegiate athletics or obtaining professional
44 representation in relation to contracts or legal matters

45 relating to earning compensation as a result of the use of
46 the student athlete's name, image, likeness rights, or
47 athletic reputation, including, but not limited to,
48 representation provided by athlete agents, financial
49 advisors, or legal representation provided by attorneys.

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

57 4. (1) No student athlete shall enter into an
58 apparel, equipment, or beverage contract providing
59 compensation to the athlete for use of the athlete's name,
60 image, likeness rights, or athletic reputation if the
61 contract requires the athlete to display a sponsor's
62 apparel, equipment, or beverage or otherwise advertise for
63 the sponsor during official team activities if such
64 provisions are in conflict with a provision of the
65 postsecondary educational institution's current licenses or
66 contracts.

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

75 (b) A postsecondary educational institution or any
76 officer, director, or employee of such institution,

including but not limited to a coach, member of the coaching staff, or any individual associated with the institution's athletic department, shall have the right to identify, create, facilitate, negotiate, support, enable, or otherwise assist with opportunities for a student athlete to earn compensation from a third party, including an institutional marketing associate, for the use of the student athlete's name, image, likeness rights, or athletic reputation, provided that such individual shall not:

a. Receive compensation from the student athlete or a third party for facilitating, enabling, or assisting with such opportunities;

b. Attempt to influence an athlete's choice of professional representation related to such opportunities; or

c. Attempt to reduce such athlete's opportunities from competing third parties.

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

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

(4) A postsecondary educational institution or any officer, director, or employee of such institution shall not compensate a student athlete, prospective student athlete, or the family of such individuals, for the use of such student athlete or prospective student athlete's name,

109 image, likeness rights, or athletic reputation, unless
110 otherwise permitted by institutional policy and a collegiate
111 athletics association that the postsecondary educational
112 institution is a member of.

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

- 117 a. Seal;
- 118 b. Logo;
- 119 c. Emblem;
- 120 d. Motto;
- 121 e. Special symbol;
- 122 f. Institutional colors;
- 123 g. Modifier or descriptor;
- 124 h. Design;
- 125 i. Patentable or copyrightable item, material, or
126 information; or
- 127 j. Other item, material, or information that
128 identifies and is recognizable as unique to such
129 postsecondary educational institution or third party.

130 (b) A postsecondary educational institution or a third
131 party shall develop and adopt a process for granting to a
132 student athlete, or to a third party for use with a student
133 athlete, a license to use such institution's or third-
134 party's unique identifiers when earning or attempting to
135 earn compensation from the use of such student athlete's
136 name, image, likeness rights, or athletic reputation
137 consistent with its policies regarding licensing of its
138 unique identifiers.

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

(d) A postsecondary educational institution, or a third party, may impose requirements that a student athlete granted a license under this subdivision refrain from using such unique identifier in a manner that the institution in its sole discretion determines:

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

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

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

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

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

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

6. (1) If a private postsecondary educational institution collects, retains, or maintains the terms of a student athlete's contract or proposed contract detailing compensation to such student athlete for the use of such student athlete's name, image, likeness, or athletic

171 reputation, such postsecondary educational institution shall
172 consider such contract terms to be student-governed by the
173 Family Education Rights and Privacy Act (FERPA).

174 (2) The terms of a contract or proposed contract
175 detailing compensation to a student athlete for the use of
176 such student athlete's name, image, likeness, or athletic
177 reputation shall be deemed a closed record under chapter
178 610. A public postsecondary educational institution subject
179 to this subsection may withhold or refuse to release or
180 otherwise disclose such contract terms without seeking a
181 formal opinion of the attorney general of this state as
182 authorized in section 610.027.

183 7. (1) No compensation to a student athlete for
184 earning or attempting to earn compensation from the use of
185 such student athlete's name, image, likeness rights, or
186 athletic reputation shall be conditioned on such student
187 athlete's athletic performance. Those providing
188 compensation to a student athlete for the use of his or her
189 name, image, likeness rights, or athletic reputation shall
190 have the right to condition payment of that compensation on
191 a student athlete's attendance at a particular postsecondary
192 educational institution.

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

198 (3) Notwithstanding any rule of an athletic
199 association, athletic conference, or any other organization
200 with authority over varsity intercollegiate athletics,
201 institutional marketing associates shall have the right to
202 compensate a student athlete for the commercial use of the

student athlete's name, image, likeness rights, or athletic reputation. This includes the right to compensate a student athlete for the commercial use of the student athlete's name, image, or likeness rights in connection with the promotion of athletic events in which the student athlete will or may participate, the promotion of the postsecondary educational institution the student athlete attends, and the promotion of the postsecondary educational institution's intercollegiate athletics or sports program. Further, an institutional marketing associate shall, in the event that a postsecondary educational institution or its intercollegiate athletics program affirmatively grants a request, have the right to utilize a postsecondary educational institution's, or the postsecondary educational institution's intercollegiate athletics program's, content creation and marketing capabilities in connection with services provided for the promotion of athletic events in which a student athlete will or may participate, the postsecondary educational institution, or the institution's intercollegiate athletics or sports program.

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

235 8. (1) Postsecondary educational institutions that
236 enter into commercial agreements that directly or indirectly
237 require the use of a student athlete's name, image,
238 likeness, or athletic reputation shall offer at least two
239 workshops per calendar year that may include topics such as
240 financial literacy, life skills, time management, and
241 entrepreneurship. The workshops may not be offered in the
242 same month and each workshop offered in a calendar year must
243 be unique and not simply a repeat of the other workshop
244 offered that year. The institution shall notify all student
245 athletes of the sessions through the distribution of
246 informational materials via email or other communication
247 methods the institution regularly uses to communicate with
248 student athletes.

249 (2) The educational workshops shall not include any
250 marketing, advertising, referral, or solicitation by
251 providers of financial products or services.

252 9. An athletic association, athletic conference, or
253 any other organization with authority over varsity
254 intercollegiate athletics shall not, and shall not authorize
255 its member institutions to:

256 (1) Prevent a student athlete from receiving
257 compensation for the commercial use of the student athlete's
258 name, image, likeness rights, or athletic reputation under
259 this section;

260 (2) Penalize a student athlete for receiving
261 compensation for the commercial use of the student athlete's
262 name, image, likeness rights, or athletic reputation under
263 this section;

264 (3) Prevent a postsecondary educational institution
265 from participating in varsity intercollegiate athletics or
266 otherwise penalize a postsecondary educational institution

as a result of a student athlete's receipt of compensation for the student athlete's name, image, likeness rights, or athletic reputation under this section;

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

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

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

10. A student athlete shall have the right to obtain professional representation for the purpose of securing compensation for the use of his or her name, image, or likeness without penalty or resulting limitation on participating or effect on the student athlete's athletic grant-in-aid eligibility. Professional representation shall be by attorneys or agents licensed by this state. Any professional representation agreement shall be in writing, be executed by both parties, clearly describe the obligations of the parties, and outline fees for the professional representation.

11. (1) Any student athlete may bring a civil action against third parties that violate this section or that interfere with such student athlete's earning or attempting

299 to earn compensation from the use of such student athlete's
300 name, image, likeness rights, or athletic reputation for
301 appropriate injunctive relief or actual damages, or both.
302 Such action shall be brought in the county where the
303 violation occurred, or is about to occur, and the court
304 shall award damages and court costs to a prevailing
305 plaintiff.

306 (2) Student athletes bringing an action under this
307 section shall not be deprived of any protections provided
308 under law with respect to a controversy that arises and
309 shall have the right to adjudicate claims that arise under
310 this section.

311 12. No legal settlement shall conflict with the
312 provisions of this section.

313 13. This section shall apply only to agreements or
314 contracts entered into, modified, or renewed on or after
315 August 28, 2021. Such agreements or contracts include, but
316 are not limited to, the national letter of intent, an
317 athlete's financial aid agreement, commercial contracts in
318 the athlete group licensing market, and athletic conference
319 or athletic association rules or bylaws.

320 14. No postsecondary educational institution's
321 employees, including athletics coaching staff, shall be
322 liable for any damages to a student athlete's ability to
323 earn compensation for the use of the student athlete's name,
324 image, or likeness resulting from decisions or actions
325 routinely taken in the course of intercollegiate athletics.

326 15. This section does not affect the rights of student
327 athletes under Title IX of the Education Amendments of 1971
328 (20 U.S.C. Section 1681 et seq.).

329 [16. (1) A high school athlete who competes on an
330 interscholastic athletic team in this state that is

sponsored by a public school or by a private school whose students compete against a public school's students may earn or attempt to earn compensation from the use of such athlete's name, image, likeness rights, or athletic reputation as provided in this section, subject to the following:

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

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

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

✓