

SENATE BILL NO. 80

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

0755S.01H

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Section A. Section 173.280, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 167.750 and 173.280, to read as follows:

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

(1) "High school athlete", an individual who is eligible to participate in, participates in, or has participated in an interscholastic sport on an 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;

(2) "Private school", the same definition as in section 166.700;

(3) "Public school", the same definition as in section 160.011.

2. A high school athlete 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 and section 173.280, subject to the following:

(1) A high school athlete shall have the right to discuss earning or attempting to earn such compensation

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

19 before signing an athletic letter of intent or other written
20 agreement only when having discussions about potential
21 enrollment with a postsecondary educational institution in
22 this state; and

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

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

37 4. A high school athlete who earns or attempts to earn
38 compensation from the use of such athlete's name, image,
39 likeness rights, or athletic reputation as provided in this
40 section and section 173.280 may, upon the approval of the
41 administration of the athlete's high school, use any of the
42 following identifiers of the athlete's high school in such
43 earning efforts:

- 44 (1) Colors;
- 45 (2) Logos;
- 46 (3) Mascot;
- 47 (4) Name;
- 48 (5) Nickname;
- 49 (6) Uniforms; and

50 **(7) Any other item, material, or information that**
51 **identifies and is recognizable as unique to such athlete's**
52 **high school.**

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

3 (1) "Institutional marketing associate", any third-
4 party entity that enters into an agreement with a
5 postsecondary educational institution or its intercollegiate
6 athletics or sports program to market and/or promote the
7 postsecondary educational institution or its intercollegiate
8 athletics or sports program, or to otherwise act on behalf
9 of the postsecondary educational institution or the
10 postsecondary educational institution's intercollegiate
11 athletics or sports program. This term does not include a
12 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,
77 including but not limited to a coach, member of the coaching
78 staff, or any individual associated with the institution's
79 athletic department, shall have the right to identify,
80 create, facilitate, negotiate, support, enable, or otherwise
81 assist with opportunities for a student athlete to earn
82 compensation from a third party, including an institutional
83 marketing associate, for the use of the student athlete's
84 name, image, likeness rights, or athletic reputation,
85 provided that such individual shall not:

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

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

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

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

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

104 (4) A postsecondary educational institution or any
105 officer, director, or employee of such institution shall not
106 compensate a student athlete, prospective student athlete,
107 or the family of such individuals, for the use of such
108 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.

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

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

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

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

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

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

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

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

166 6. (1) If a private postsecondary educational
167 institution collects, retains, or maintains the terms of a
168 student athlete's contract or proposed contract detailing
169 compensation to such student athlete for the use of such
170 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
203 student athlete's name, image, likeness rights, or athletic
204 reputation. This includes the right to compensate a student
205 athlete for the commercial use of the student athlete's
206 name, image, or likeness rights in connection with the
207 promotion of athletic events in which the student athlete
208 will or may participate, the promotion of the postsecondary
209 educational institution the student athlete attends, and the
210 promotion of the postsecondary educational institution's
211 intercollegiate athletics or sports program. Further, an
212 institutional marketing associate shall, in the event that a
213 postsecondary educational institution or its intercollegiate
214 athletics program affirmatively grants a request, have the
215 right to utilize a postsecondary educational institution's,
216 or the postsecondary educational institution's
217 intercollegiate athletics program's, content creation and
218 marketing capabilities in connection with services provided
219 for the promotion of athletic events in which a student

220 athlete will or may participate, the postsecondary
221 educational institution, or the institution's
222 intercollegiate athletics or sports program.

223 (4) Notwithstanding any rule of an athletic
224 association, athletic conference, or any other organization
225 with authority over varsity intercollegiate athletics,
226 student athletes shall have the right to receive
227 compensation from an institutional marketing associate for
228 the commercial use of their name, image, likeness rights, or
229 athletic reputation, in connection with, among other items,
230 the promotion of athletic events in which the student
231 athlete will or may participate, the promotion of the
232 postsecondary educational institution the student athlete
233 attends, and the promotion of the postsecondary educational
234 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
267 as a result of a student athlete's receipt of compensation
268 for the student athlete's name, image, likeness rights, or
269 athletic reputation under this section;

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

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

278 (6) Penalize a postsecondary educational institution
279 because an institutional marketing associate compensates a
280 student athlete for use of his or her name, image, likeness
281 rights, or athletic reputation, as protected under this
282 section, or if a third party violates the collegiate

283 athletic association's rules or regulations with regard to
284 student athlete name, image, or likeness activities.

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

296 11. (1) Any student athlete may bring a civil action
297 against third parties that violate this section or that
298 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
331 sponsored by a public school or by a private school whose
332 students compete against a public school's students may earn
333 or attempt to earn compensation from the use of such
334 athlete's name, image, likeness rights, or athletic
335 reputation as provided in this section, subject to the
336 following:

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

343 (b) A high school athlete shall have the right to earn
344 or attempt to earn such compensation only after signing an
345 athletic letter of intent or other written agreement to

346 enroll in a postsecondary educational institution in this
347 state.

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

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