

1 SB328
2 207960-1
3 By Senators Hatcher, Figures, Coleman-Madison, Singleton and
4 Smitherman
5 RFD: Education Policy
6 First Read: 11-MAR-21

SYNOPSIS: Existing law regulates the activities of student athletes as they relate to athlete agents and legal representation, but does not address compensation received by student athletes.

This bill would prohibit Alabama postsecondary educational institutions and every athletic association, conference, or other group or organization with authority over intercollegiate sports from preventing any student athlete participating in intercollegiate sports from earning compensation as a result of the use of the student athlete's name, image, or likeness or seeking or obtaining legal or professional representation relating to the student athlete's participation in intercollegiate sports.

The bill would also prohibit an athletic association, conference, or other group or organization with authority over intercollegiate sports from preventing a postsecondary educational institution from participating in intercollegiate

1 sports as a result of the compensation of a student
2 athlete for the use of the student athlete's name,
3 image, or likeness, or from directly providing a
4 prospective intercollegiate student athlete with
5 compensation in relation to the student athlete's
6 name, image, or likeness. The bill would prohibit
7 the revocation of a student's scholarship as a
8 result of earning compensation or obtaining legal
9 representation as authorized under the bill. The
10 bill would prohibit a student athlete from entering
11 into any contract providing compensation to the
12 athlete for use of the athlete's name, image, or
13 likeness if a provision of the contract is in
14 conflict with a provision of the athlete's team
15 contract, and would also prohibit a team contract
16 from preventing a student athlete from using his or
17 her name, image, or likeness for a commercial
18 purpose when the athlete is not engaged in official
19 team activities.

20 The bill would require that each
21 postsecondary educational institution fund an
22 annuity for each student athlete who declares that
23 he or she will not receive compensation for use of
24 his or her name, image, or likeness and will not
25 seek or retain professional or legal representation
26 relating to the student athlete's participation in
27 intercollegiate sports, and would allow each

1 student athlete to amend or renew his or her
2 declaration under certain conditions. The bill
3 would also require each postsecondary educational
4 institution to conduct a financial literacy and
5 life skills workshop for each student athlete at
6 the beginning of each student athlete's first and
7 third years.

8 The bill would create the Historically Black
9 Colleges and Universities Working Group to make
10 recommendations about the receipt of compensation
11 by a student athlete at an historically black
12 college or university for the use of his or her
13 name, image, and likeness.

14 The working group would convene no later
15 than July 1, 2021, and would issue a report no
16 later than January 1, 2022; the remainder of the
17 bill would become operative on January 1, 2023.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Relating to student athletes; to prohibit Alabama
24 postsecondary educational institutions and every athletic
25 association, conference, or other group or organization with
26 authority over intercollegiate athletics in this state from
27 preventing any student athlete participating in

1 intercollegiate athletics from earning compensation as a
2 result of the use of the student athlete's name, image, or
3 likeness or from obtaining professional or legal
4 representation relating to the student athlete's participation
5 in intercollegiate athletics; to require each postsecondary
6 educational institution, under certain conditions, to create
7 an annuity fund for each student athlete who declares that he
8 or she will not receive compensation for use of his or her
9 name, image, or likeness and will not seek or retain
10 professional or legal representation relating to the use of
11 his or her name, image, or likeness; to require each
12 postsecondary educational institution to conduct a financial
13 literacy and life skills workshop for student athletes; and to
14 convene a working group relating to receipt of compensation by
15 student athletes at historically black colleges and
16 universities.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. For purposes of this act, the following
19 terms shall have the following meanings:

20 (1) COMPENSATION. Anything of value, monetary or
21 otherwise, granted to a party by a second party in exchange
22 for performance of a contract. For purposes of this
23 subdivision, a contract includes, but is not limited to, a
24 contract for a personal appearance, product endorsement,
25 product placement, intellectual property rights, or a
26 promotional mix, performed in person or via traditional media,

1 electronic media, or social media. For purposes of this act,
2 compensation does not include any of the following:

3 a. A scholarship awarded to a student athlete by a
4 postsecondary educational institution.

5 b. A stipend given to a student athlete by a
6 postsecondary educational institution which is calculated
7 based on the cost of living and cost of attendance of the
8 institution.

9 c. An annuity created under Section 3.

10 (2) INTERCOLLEGIATE SPORT. An athletic program at a
11 postsecondary educational institution.

12 (3) NAME, IMAGE, OR LIKENESS. Any or all of those
13 elements which, together, are known as the right of publicity.

14 (4) POSTSECONDARY EDUCATIONAL INSTITUTION. A public
15 university or college in this state, an Alabama Community
16 College System institution, or an institution for higher
17 education as defined in Section 16-18A-2, Code of Alabama
18 1975.

19 (5) STUDENT ATHLETE. As defined in Section 8-26B-2,
20 Code of Alabama 1975.

21 Section 2. (a) A postsecondary educational
22 institution or any athletic program of a postsecondary
23 educational institution may not do any of the following:

24 (1) Uphold any rule, requirement, standard, or other
25 limitation that prevents a student athlete participating in
26 intercollegiate sports at that institution from earning
27 compensation for use of the use of the student's name, image,

1 or likeness, or limits the compensation earned by that
2 student.

3 (2) Provide a student athlete with compensation in
4 relation to the student athlete's name, image, or likeness.

5 (3) Prevent a student athlete from seeking or
6 obtaining legal or professional representation in relation to
7 contracts or legal matters, including, but not limited to,
8 representation provided by athlete agents or legal
9 representation provided by attorneys.

10 (4) Revoke a scholarship of a student athlete as a
11 result of the student athlete earning compensation or
12 obtaining legal or professional representation pursuant to
13 this act, or otherwise alter a student athlete's scholarship
14 eligibility as a result of the student athlete earning
15 compensation or seeking or obtaining representation pursuant
16 to this act.

17 (5) Uphold a team contract that prevents a student
18 athlete from using the athlete's name, image, or likeness for
19 a commercial purpose when the athlete is not engaged in
20 official team activities or limits the compensation earned by
21 a student athlete. This subdivision shall apply only to
22 contracts entered into, modified, or renewed on or after
23 January 1, 2023.

24 (b) An athletic association, conference, or other
25 group or organization with authority over intercollegiate
26 sports in this state, including, but not limited to, the

1 National Collegiate Athletic Association, may not do any of
2 the following:

3 (1) Prevent a student athlete participating in
4 intercollegiate sports from earning compensation as a result
5 of the use of the student's name, image, or likeness, or
6 otherwise limit the compensation earned by the student
7 athlete.

8 (2) Prevent or otherwise limit a postsecondary
9 educational institution from participating in intercollegiate
10 sports as a result of the compensation of a student athlete
11 for the use of the student's name, image, or likeness.

12 (3) Provide a student athlete with compensation in
13 relation to the student athlete's name, image, or likeness.

14 (4) Prevent or limit a student athlete from
15 obtaining legal or professional representation in relation to
16 contracts or legal matters, including, but not limited to,
17 representation provided by athlete agents or legal
18 representation provided by attorneys.

19 (c) (1) a. A student athlete who obtains legal or
20 professional representation relating to participation in
21 intercollegiate sports or compensation for use of the student
22 athlete's name, image, or likeness shall promptly disclose
23 that representation to an official of the institution
24 designated by the institution.

25 b. If a student athlete obtains legal or
26 professional representation as described in paragraph a. prior
27 to participating in intercollegiate sports at a postsecondary

1 educational institution, the student athlete shall disclose
2 the contract to an official of the institution designated by
3 the institution prior to participating in intercollegiate
4 sports at the institution.

5 (2) A student athlete may not enter into a contract
6 providing compensation to the student athlete for use of the
7 student athlete's name, image, or likeness if a provision of
8 the contract is in conflict with a provision of the student
9 athlete's team contract.

10 (3)a. At the time of formation of a contract
11 providing compensation to a student athlete participating in
12 intercollegiate sports at a postsecondary educational
13 institution for the use of his or her name, image or likeness,
14 the student athlete shall immediately disclose the contract to
15 an official of the institution designated by the institution.

16 b. If a student athlete enters into a contract
17 providing compensation to the student athlete for use of his
18 or her name, image, or likeness prior to participating in
19 intercollegiate sports at a postsecondary educational
20 institution, the student athlete shall disclose the contract
21 to an official of the institution designated by the
22 institution prior to participating in intercollegiate sports
23 at the institution.

24 c. An institution asserting a conflict described in
25 subdivision (2) shall promptly disclose to the student athlete
26 and the student athlete's legal representation the relevant
27 contractual provisions that are asserted to be in conflict.

1 Section 3. (a) Prior to participating in
2 intercollegiate sports at a postsecondary educational
3 institution, and prior to the start of each academic year,
4 each student athlete shall declare to the institution whether
5 the student athlete will receive compensation for use of his
6 or her name, image, or likeness or seek or retain professional
7 representation by athlete agents or legal representation
8 relating to compensation for use of the athlete's name, image,
9 or likeness while participating in intercollegiate sports at
10 the institution.

11 (b) (1) Each postsecondary educational institution
12 shall allow each student athlete to renew or amend his or her
13 declaration made under this section up to 30 days following a
14 declaration.

15 (2) Declarations made under this section shall be
16 made to the postsecondary educational institution in a manner
17 designated by the institution.

18 (c) Each postsecondary educational institution shall
19 fund an annuity for each student athlete who declares that he
20 or she shall not receive compensation for use of his or her
21 name, image, or likeness and that he or she will not seek or
22 retain professional representation by athlete agents or legal
23 representation relating to compensation for name, image, or
24 likeness.

25 (1) No later than 45 days following the beginning of
26 each academic year, each postsecondary institution shall
27 deposit up to ten thousand dollars (\$10,000) into the annuity

1 fund of each student athlete who has declared under this
2 section that he or she will not receive compensation or seek
3 or retain representation.

4 (2)a. If a student athlete, while participating in
5 intercollegiate sports at the postsecondary educational
6 institution, makes a declaration that he or she will receive
7 compensation for use of his or her name, image, or likeness or
8 seek or retain professional or legal representation relating
9 to compensation for use of the athlete's name, image, or
10 likeness, the entirety of the annuity fund created by the
11 institution for that student athlete shall revert to the
12 institution following the 30-day period required under
13 subsection (b).

14 b. If a student athlete, while participating in
15 intercollegiate sports at the institution, receives
16 compensation for use of his or her name, image, or likeness or
17 seeks or retains professional or legal representation relating
18 to compensation for use of his or her name, image, or
19 likeness, the entirety of the annuity fund created by the
20 institution for that student athlete shall immediately revert
21 to the institution.

22 (3) Upon graduation of a student athlete from a
23 postsecondary educational institution, the institution shall
24 transfer control of the entirety of the student athlete's
25 annuity fund to the student athlete.

26 Section 4. (a) Each postsecondary educational
27 institution shall conduct a financial literacy and life skills

1 workshop for a minimum of five hours at the beginning of each
2 student athlete's first and third academic years. The
3 workshop, at a minimum, shall include information concerning
4 financial aid and debt management, as well as recommended
5 model budgets for student athletes based on that academic
6 year's estimated cost of attendance and the various
7 scholarship status of student athletes at the institution. The
8 workshop shall also include information on time management
9 skills necessary for success as a student athlete and
10 available academic resources.

11 (b) The workshop shall not include any marketing,
12 advertising, referral, or solicitation by providers of
13 financial products or services.

14 Section 5. (a) There is created a Historically Black
15 Colleges and Universities name, image, and likeness working
16 group, to study this act and to issue recommendations as they
17 pertain to compensation of student athletes participating in
18 intercollegiate sports at those institutions.

19 (b) The working group shall consist of the following
20 members:

21 (1) One member of the House of Representatives
22 appointed by the Speaker of the House.

23 (2) One member of the House of Representatives
24 appointed by the Minority Leader.

25 (3) One member of the Senate appointed by the
26 President Pro Tempore of the Senate.

1 (4) One member of the Senate appointed by the
2 Minority Leader of the Senate.

3 (5) One student athlete and one other representative
4 from each of the following institutions, designated by the
5 board of trustees of each institution:

- 6 a. Alabama State University.
- 7 b. Alabama A&M University.
- 8 c. Tuskegee University.
- 9 d. Stillman College.
- 10 e. Oakwood University.
- 11 f. Gadsden State Community College.
- 12 g. Lawson State Community College Birmingham.
- 13 h. Bishop State Community College.
- 14 i. Shelton State Community College.
- 15 j. J. F. Drake State Community College and Technical
16 College.
- 17 k. Talladega College.
- 18 l. Concordia College Alabama.
- 19 m. Miles College.

20 (c) The appointing authorities shall coordinate
21 their appointments so that diversity of gender, race, and
22 geographical areas is reflective of the makeup of this state.

23 (d) (1) The working group shall hold its first
24 meeting no later than July 1, 2021.

25 (2) The working group shall elect a chair and vice
26 chair during its first meeting, by majority vote of members
27 present at the meeting.

1 (e) The working group shall review this act and any
2 relevant existing athletic association rules and bylaws
3 relating to compensation of a student athlete for use of his
4 or her name, image, or likeness.

5 (f) On or before January 1, 2022, the working group
6 shall report its findings and policy recommendations to the
7 chairs of the House State Government Committee and the Senate
8 State Government Committee. The chair of each committee shall
9 distribute a copy of the report to each member of the
10 committee no later than five business days following his or
11 her receipt of the report.

12 Section 6. It is the intent of the Legislature that
13 constitutionally created boards of trustees of postsecondary
14 institutions comply with the requirement of this act.

15 Section 7. Section 5 of this act shall become
16 effective immediately following its passage and approval by
17 the Governor, or its otherwise becoming law; the remainder of
18 this act shall become effective January 1, 2023, following its
19 passage and approval by the Governor, or its otherwise
20 becoming law.