

1 HB404
2 209511-1
3 By Representatives South, Lovvorn, Clouse and Pringle
4 RFD: State Government
5 First Read: 11-FEB-21

SYNOPSIS: This bill would provide that a student athlete may earn compensation for the use of the student athlete's name, image, or likeness.

 This bill would also provide that a postsecondary educational institution may not prevent or unduly restrict the receipt of compensation by a student athlete for use of their name, image, or likeness.

 This bill would establish the Alabama Collegiate Athletics Commission to provide rules and recommendations on matters related to name, image, and likeness issues, and to require each postsecondary educational institution to conduct a financial literacy and life skills workshop for student athletes.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to student athletes; to provide that a
2 student athlete may earn compensation for the use of the
3 student athlete's name, image, or likeness; to provide that a
4 postsecondary educational institution may not prevent or
5 unduly restrict the receipt of compensation by a student
6 athlete for use of their name, image, or likeness; to require
7 each postsecondary educational institution to conduct a
8 financial literacy and life skills workshop for student
9 athletes; and to establish a commission to provide rules and
10 recommendations on matters related to name, image, and
11 likeness issues.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

15 (1) COMPENSATION. Anything of value, monetary or
16 otherwise, granted to a party by a second party in exchange
17 for performance of a contract. For purposes of this act,
18 compensation does not include a scholarship awarded to a
19 student athlete by a postsecondary educational institution or
20 a stipend given to a student athlete by a postsecondary
21 educational institution which is calculated based on the cost
22 of living and cost of attendance at the institution.

23 (2) INTERCOLLEGIATE SPORT. An athletic program at a
24 postsecondary educational institution.

25 (3) NAME, IMAGE, OR LIKENESS. Any or all of those
26 elements that, together, are known as the right of publicity.

1 (4) POSTSECONDARY EDUCATIONAL INSTITUTION. A public
2 university or college in this state, an Alabama Community
3 College System institution, or an institution for higher
4 education as defined in Section 16-18A-2, Code of Alabama
5 1975.

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

8 Section 2. (a) A student athlete participating in
9 intercollegiate sports at a postsecondary educational
10 institution may earn compensation for the use of the student
11 athlete's name, image, or likeness pursuant to this act. The
12 compensation shall be commensurate with the market value of
13 the student athlete's name, image, or likeness.

14 (b) Subject to this act and any rule adopted by the
15 Alabama Collegiate Athletics Commission pursuant to Section 6,
16 a postsecondary educational institution may not adopt or
17 maintain a contract, rule, regulation, standard, or other
18 requirement that unreasonably restricts a student athlete from
19 receiving compensation for the student athlete's name, image,
20 or likeness.

21 (1) A postsecondary educational institution may
22 prohibit a student athlete from entering into an endorsement
23 contract with, or otherwise receiving compensation from, any
24 of the following categories of brands or companies:

25 a. A tobacco company or brand, including any
26 tobacco product, alternative nicotine product, electronic
27 nicotine delivery system, or any electronic nicotine delivery

1 system retailer, or any specialty retailer of electronic
2 nicotine delivery systems or tobacco specialty store, as
3 defined in Section 28-11-2, Code of Alabama 1975.

4 b. Any alcoholic beverage company or brand.

5 c. Any seller or dispensary of a controlled
6 substance, including, but not limited to, marijuana.

7 d. Any adult entertainment business.

8 e. Any casino or entities that sponsor or promote
9 gambling activities.

10 (2) A postsecondary educational institution may also
11 prohibit a student athlete from wearing any item of clothing
12 or gear with the insignia of any entity while wearing athletic
13 gear or uniforms licensed by a postsecondary educational
14 institution or otherwise competing in any athletic competition
15 or institutionally-sponsored event.

16 (c) Compensation for a student athlete's name,
17 image, or likeness may not be conditioned on athletic
18 performance or attendance at a particular postsecondary
19 educational institution.

20 (d) Compensation for the use of a student athlete's
21 name, image, or likeness may be provided only by a third party
22 not owned or operating under the authority of the student
23 athlete's postsecondary educational institution.

24 (e) A postsecondary educational institution, an
25 entity with the purpose of supporting or benefitting the
26 institution or its intercollegiate sports, or any officer,
27 director, or employee of the institution or entity may not

1 compensate or cause compensation to be directed to a student
2 athlete or the family of a student athlete for use of their
3 name, image, or likeness.

4 (f) Except with the written consent of the
5 postsecondary education institution, a student athlete may not
6 enter into a contract for compensation for the use of the
7 student athlete's name, image, or likeness if the institution
8 determines that a term of the contract conflicts with a term
9 of a contract held by the student athlete's postsecondary
10 education institution.

11 (g) Before any contract for compensation for the use
12 of a student athlete's name, image, or likeness is executed,
13 the student athlete shall disclose that contract to his or her
14 postsecondary educational institution in a manner prescribed
15 by the institution.

16 (h) A contract for the use of a student athlete's
17 name, image, or likeness which is formed while the student
18 athlete is participating in an intercollegiate sport at a
19 postsecondary educational institution may not extend beyond
20 the student athlete's participation in the sport at the
21 institution.

22 Section 3. (a) A postsecondary educational
23 institution may not prevent or unduly restrict a student
24 athlete from obtaining professional representation for the
25 purpose of securing compensation for the use of the student
26 athlete's name, image, or likeness.

1 (b) An individual representing a student athlete for
2 purposes of exploring or securing compensation for the student
3 athlete's name, image, or likeness shall be registered as an
4 athlete agent with the state pursuant to Section 8-26B-4, Code
5 of Alabama 1975, or shall be a licensed attorney and a member
6 in good standing of the Alabama State Bar.

7 Section 4. A scholarship awarded to a student
8 athlete by a postsecondary educational institution may not be
9 revoked or reduced as a result of the receipt of compensation
10 by a student athlete for use of their name, image, or
11 likeness, or as a result of the student athlete obtaining
12 professional representation.

13 Section 5. (a) Each postsecondary educational
14 institution shall conduct a financial literacy and life skills
15 workshop for a minimum of five hours at the beginning of the
16 student athlete's first and third academic years. At a
17 minimum, the workshop must include information concerning
18 financial aid and debt management, as well as recommended
19 model budgets for student athletes based on that academic
20 year's estimated cost of attendance and the various
21 scholarship statuses of student athletes at the institution.
22 The workshop shall also include information on time management
23 skills necessary for success as a student athlete and
24 available academic resources.

25 (b) The workshop may not include any marketing,
26 advertising, referral, or solicitation by providers of
27 financial products or services.

1 Section 6. (a) There is established the Alabama
2 Collegiate Athletics Commission. The purpose of the commission
3 shall be to develop rules and recommendations to maintain the
4 fairness and integrity of amateur intercollegiate athletics
5 and the principle of amateurism in intercollegiate athletics,
6 consistent with this act. The commission may do all of the
7 following:

8 (1) Make rules or recommendations related to the
9 implementation of name, image, and likeness standards and
10 requirements that are consistent with this act.

11 (2) Make rules or recommendations about a process to
12 manage registered athlete agents in the context of name,
13 image, and likeness.

14 (3) Make rules or recommendations for the
15 establishment of an independent dispute resolution process for
16 any dispute arising between a student athlete and a
17 postsecondary education institution related to name, image, or
18 likeness usage.

19 (b) The commission shall consist of six members,
20 including the Governor, who shall serve as chair; the
21 Lieutenant Governor; the President Pro Tempore of the Senate;
22 the Speaker of the House of Representatives; and the Minority
23 Leaders of the House of Representatives and the Senate.

24 (c) The commission may consult with individuals or
25 groups with information or knowledge about issues related to
26 name, image, and likeness, including, but not limited to,
27 current or former student athletes, coaches, conference or

1 school administrators, professionals with expertise in sports
2 marketing, contracting and public relations, and athletic
3 agents.

4 (d)(1) Meetings of the commission shall be held at
5 the call of the chair.

6 (2) A meeting may only be held where there is a
7 quorum of at least three members.

8 (3) Meetings of the commission may take place via
9 electronic means.

10 (4) Within 15 calendar days of any called meeting,
11 the commission must publicly post a report of any formal rules
12 or recommendations that were developed during the meeting.

13 (d) A violation of a rule of the commission shall be
14 punishable by a civil penalty of up to one thousand dollars
15 (\$1,000).

16 Section 7. A student athlete may not receive or
17 enter into a contract for compensation for use of his or her
18 name, image, or likeness in a way that also uses any
19 registered or licensed marks, logos, verbiage, or designs of a
20 postsecondary education institution, unless the institution
21 has provided the student athlete with written permission to do
22 so prior to the execution of the contract. If permission is
23 granted, the postsecondary education institution, by agreement
24 of all parties, may be compensated for the use in a manner
25 consistent with market rates or prior practice.

26 Section 8. A student athlete may not receive
27 compensation for use of their name, image, or likeness as an

1 inducement to attend or enroll in or continue attending a
2 specific postsecondary educational institution.

3 Section 9. This act does not create a cause of
4 action for any actions taken by a postsecondary education
5 institution prior to the effective date of this act,
6 including, but not limited to, any action under a claim or
7 theory relating to restriction on trade or tortious
8 interference of fair competition.

9 Section 10. Nothing in this act or rule of the
10 commission shall affect the employment status of a student
11 athlete with a postsecondary education institution. A student
12 athlete shall not be considered an employee of a postsecondary
13 education institution based on participation in an
14 intercollegiate sport.

15 Section 11. It is the intent of the Legislature that
16 constitutionally created boards of trustees of postsecondary
17 educational institutions comply with the requirement of this
18 act.

19 Section 12. (a) An individual other than a student
20 athlete who violates subsections (c), (d), or (e) of Section 2
21 or who grants compensation to a student athlete in a manner
22 that causes the student athlete to violate Section 8 shall be
23 guilty of a Class C felony.

24 (b) A student athlete who receives compensation as a
25 result of a violation of subsections (c), (d), or (e) of
26 Section 2 or Section 8 shall be guilty of a Class A
27 misdemeanor.

1 Section 13. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.