



State of Tennessee

PUBLIC CHAPTER NO. 300

SENATE BILL NO. 536

By Stevens, Yager, Massey, Gardenhire, Lowe

Substituted for: House Bill No. 194

By Vaughan, Brock Martin; Mr. Speaker Sexton; Zachary, Cochran, Faison, Marsh, Haston, Renea Jones, White, Garrett, Lamberth, McKenzie, Parkinson, Davis

AN ACT to amend Tennessee Code Annotated, Title 49, relative to education.

WHEREAS, the General Assembly finds and declares it public policy that institutions and their athletic programs are encouraged to compete nationally, attract elite talent, and provide the support necessary to grow the economy of this State and its sports and entertainment industry, thereby advancing, promoting, and protecting the interests of intercollegiate athletes; and

WHEREAS, Tennessee institutions and their athletic programs need certainty to future-proof their ability to compete in a fluid national collegiate athletics landscape, preserve their ability to comply with pending court settlements, and safeguard the State's sovereign immunity; and

WHEREAS, it is contrary to public policy for an institution's athletic association transacting business in Tennessee to create anticompetitive restrictions that lessen, or tend to lessen, full and free competition in trade or commerce affecting this State or to otherwise violate state and federal law; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, Part 28, is amended by deleting the part and substituting:

49-7-2801.

As used in this part, unless the context otherwise requires:

(1) "Athlete agent" has the same meaning as defined in § 49-7-2102;

(2) "Athletic association" means a corporation, association, or any other group organized or with authority to set common rules, bylaws, standards, procedures, policies, or guidelines in administering, sponsoring, or arranging intercollegiate athletics and its athletic competitions between and amongst multiple member institutions and intercollegiate athletes in more than one (1) state;

(3) "Athletic program" means an intercollegiate athletic program at an institution;

(4) "Compensation" means payments, benefits, or other forms of remuneration that may be provided to an intercollegiate athlete pursuant to § 49-7-2802(a), but does not include state appropriated funds;

(5) "Institution":

(A) Means a four-year public or private institution of higher education located in this state and includes an officer, director, or employee thereof, including athletic program coaches and staff; and

(B) Does not include an institution of higher education governed by the board of regents of the state university and community college system; and

(6) "Intercollegiate athlete" means a student who is enrolled in an institution and participates in an athletic program or a prospective student who has started or completed ninth grade and can, in the future, enroll in an institution and participate in an athletic program.

49-7-2802.

(a) An intercollegiate athlete may perform diligence and receive compensation related to the use of the intercollegiate athlete's name, image, or likeness, the intercollegiate athlete's enrollment at an institution, roster position with its athletics program, or any other categories of compensation available to or received by similarly situated intercollegiate athletes in interstate commerce.

(b)(1)

(A) A third party, including, but not limited to, an institution and its affiliated foundations, or a third party authorized to act on behalf of such institution or affiliated foundation, may facilitate, offer, and provide compensation described in subsection (a) to an intercollegiate athlete unless expressly prohibited or limited by:

(i) Federal law;

(ii) A valid court order with binding jurisdiction over an institution and its intercollegiate athletes; or

(iii) An institution's athletic association that satisfies the requirements in subdivision (b)(3).

(B) A third party acting or purporting to act on behalf of an institution or its affiliated foundation pursuant to this subdivision (b)(1) shall provide the intercollegiate athlete, upon request by the intercollegiate athlete, with written evidence and the ability to verify such evidence with the institution or its affiliated foundation within one (1) week of the request; provided, that if the third party does not comply with the request in a timely manner or the intercollegiate athlete is otherwise unable to verify authorization, then, upon notice by the intercollegiate athlete, any contract entered into between an unauthorized third party and an intercollegiate athlete is deemed null and void from its inception without penalty, loss, or fault.

(2) Neither a grant-in-aid for athletics awarded to an intercollegiate athlete by an institution, including the cost of attendance, nor an institution's or its affiliated foundation's involvement in support of name, image, or likeness activities under this part constitutes compensation to, or representation of, an intercollegiate athlete by the institution for purposes of this section. Such institutional and affiliated foundation involvement shall be in furtherance of public policy and may include, but not be limited to, entering into or otherwise participating in any business arrangements with third parties that may provide economic incentives, foster start-ups, make investments, explore business combinations, develop licensing opportunities, or involve any other commercial activity that directly or indirectly benefits the state, the institution, the affiliated foundation, intercollegiate athletes, or industry participants.

(3) Regardless of the source of authority of an institution's athletic association pursuant to subdivisions (b)(1) or (b)(2), or any of its arrangements, agreements, contracts, transactions, settlements, or vote of any kind, the athletic association shall:

(A) Preserve all rights afforded to intercollegiate athletes under applicable state and federal law;

(B) Preserve all immunities and rights available to each of its member institutions under applicable state and federal law;

(C) Not establish, adopt, promulgate, implement, or enforce any rule, standard, procedure, policy, or guideline that violates an applicable state or federal antitrust law and, prior to any implementation or enforcement thereof, the athletic association must ensure that any action or conduct expected to be carried out, executed, required, or otherwise performed thereunder by any institution, its affiliated foundation, the athletic association itself, an intercollegiate athlete, or an authorized third party thereof is and will be legally exempt from applicable antitrust laws and meets the requirements of

subdivisions (b)(3)(A) and (B), regardless of whether a choice or option is made available by the association; and

(D) Not directly or indirectly condition, threaten, lessen, refuse, remove, terminate, cancel, circumvent, penalize, disrupt, or otherwise interfere with, in any way or degree, an institution's full enjoyment of its current and future membership, status, or any related rights in the same, including, but not limited to, voting rights, participation in athletic events, broadcasts, revenue, or athlete eligibility based, in whole or part, on such association's failure to adhere to, uphold, or otherwise satisfy the requirements of this subdivision (b)(3) or any applicable law.

(4) An institution's athletic association shall not create or impose unfair, anticompetitive, or unlawful conditions that directly or indirectly compel an institution or intercollegiate athlete to participate under such conditions or risk violating state or federal law, regardless of whether a choice or option is made available by the association. The availability of a choice, vote, authorization, or mitigation attempt of any kind does not absolve or relieve the athletic association of its obligations under subdivision (b)(3) or this subdivision (b)(4). The requirements of subdivision (b)(3) and this subdivision (b)(4) apply irrespective of a party's participation in such conditions. The athletic association shall fully indemnify and hold harmless the state, its institutions, and intercollegiate athletes from any damages, losses, claims, or remedies of any kind arising from its noncompliance or failure under such applicable law. Any violation of subdivision (b)(3) is unenforceable against institutions and intercollegiate athletes without penalty, loss, or fault.

(c) An institution and its affiliated foundations must not be held liable to a third party or an intercollegiate athlete for any damages, losses, or claims of any kind resulting from, or related to, its good faith decisions, actions, or involvement in name, image, or likeness activities taken in the course of its participation in intercollegiate athletics or matters otherwise concerning this section. This chapter, including this section, does not waive or abrogate, in any way, sovereign immunity or any other right of immunity available at law.

(d) Intercollegiate athletes who earn third-party compensation pursuant to subsection (a) may be required to disclose any agreement and the terms of such agreement, subject to any commercially reasonable terms or conditions contained therein, to an athletic association or an institution, and file annual reports at a time and in a manner designated by the athletic association or the institution.

(e) Any diligence performed, or compensation earned, does not affect the intercollegiate athlete's grant-in-aid or athletic eligibility. To the extent that intercollegiate athletes receive need-based financial aid, an institution may adjust an intercollegiate athlete's need-based financial aid as a result of compensation earned under this part in the same manner as the institution would for other students with equivalent levels of financial need.

(f) An institution may adopt reasonable time, place, and manner restrictions to prevent an intercollegiate athlete's name, image, or likeness activities from interfering with team activities, the institution's operations, or the use of the institution's facilities, or where an athlete is engaged, or expected to be engaged, in any academic or athletic program activities at the institution.

(g)(1) An institution may prohibit an intercollegiate athlete's involvement in name, image, and likeness activities that are reasonably considered to be in conflict with the values of the institution.

(2) An institution may prohibit use of the institution's intellectual property, including, but not limited to, its trademarks, trade dress, and copyrights, by the institution's intercollegiate athletes in the athletes' personal name, image, and likeness activities.

(3) Intercollegiate athletes are prohibited from involvement in name, image, or likeness activities that promote gambling, tobacco, tetrahydrocannabinol products or derivatives, alcohol, and adult entertainment.

(h)(1) An intercollegiate athlete may obtain representation by a third party, including, but not limited to, an athlete agent, for the purpose of performing diligence and securing compensation contemplated pursuant to this part. Any third-party representative of an intercollegiate athlete under this part is a fiduciary for the represented intercollegiate athlete. All athlete agents who represent intercollegiate

athletes under this part for purposes of securing compensation must be licensed under § 49-7-2104, and must satisfy the requirements of chapter 7, part 21 of this title. If the athlete's representative is an attorney who represents an intercollegiate athlete for purposes of performing diligence and securing compensation, then the attorney must be active and in good standing with the board of professional responsibility or equivalent entity in the state in which the attorney is licensed.

(2) Parents, siblings, grandparents, spouses, and legal guardians of an intercollegiate athlete who represent the intercollegiate athlete for the purpose of performing diligence and securing compensation for the use of the intercollegiate athlete's name, image, or likeness are not considered to be athlete agents for purposes of this part and are not subject to the requirements for athlete agents as prescribed by this part or part 21 of this chapter.

(3) An institution and its affiliated foundations who assist, facilitate, or otherwise provide support to an intercollegiate athlete for the purpose of performing diligence and securing third-party compensation contemplated under subsections (a) and (b) are not athlete agents for purposes of this part, and are not subject to the requirements for athlete agents as prescribed by this part or part 21 of this chapter; provided, that an individual of such institution or affiliated foundation shall not have a direct pecuniary or financial interest in the specific terms of the intercollegiate athlete's third-party compensation other than a third-party agreement described in subdivision (b)(1), and such individual does not coerce, compel, or interfere with an intercollegiate athlete's decision to earn such compensation.

(i)(1) An intercollegiate athlete or the athlete's representative shall not enter into an agreement for compensation pursuant to subsection (a) if the agreement conflicts or unreasonably competes with the terms of an existing agreement entered into at any time by the institution the athlete attends or its affiliated foundations.

(2) The institution or affiliated foundation asserting a conflict or unreasonable competition under this subsection (i) shall disclose the relevant terms of the institution's existing agreement that conflicts or unreasonably competes with the athlete's agreement to the intercollegiate athlete or the athlete's representative.

(j) Any agreement entered into by an intercollegiate athlete under eighteen (18) years of age for the use of the athlete's name, image, or likeness must be in accordance with the Tennessee Protection of Minor Performers Act, compiled in title 50, chapter 5, part 2.

(k) An agreement for representation of an intercollegiate athlete must not be in effect any longer than the duration of the athlete's participation in an athletic program at an institution. If an intercollegiate athlete enters into a third-party agreement other than an agreement described in subdivision (b)(1), and the agreement with the third party is in conflict with an athlete's eligibility to participate in an athletic program at an institution, or will prevent an athlete from participating in any athletic program event, then the agreement must be immediately rescinded or modified to adequately remove the defect and preserve the athlete's eligibility prior to participating in the athletic program or the event and, if the agreement is not timely resolved or the third party is otherwise in default, then the athlete has the right to have such agreement immediately deemed null and void from its inception, and all rights under the agreement must immediately revert to the athlete without fault, loss, or penalty.

(l) Institutions shall conduct a financial literacy workshop for intercollegiate athletes during the athlete's first full-time term of enrollment. The workshop must cover, at a minimum, information related to the requirements of this part, budgeting, and debt management. An institution and its affiliated foundations may contract with qualified persons or entities to conduct the workshop.

(m)(1) Notwithstanding § 10-7-503 or another law to the contrary, any records, materials, information, or other data received, developed, generated, ascertained, or discovered in the course of diligence, compensation, or other activities pursuant to this section, including, but not limited to, planning, strategies, recruitment, eligibility, competition, marketing, commercial opportunities, financial strategies, or other matters pertaining thereto, regardless of physical form or characteristics, are confidential and not subject to public inspection under the open records laws.

(2) Notwithstanding subdivision (m)(1), upon an institution receiving a public records request pursuant to the open records laws, compiled in title 10, chapter 7, the institution shall make available annualized, aggregated compensation data

representing actual amounts provided by such institution to its intercollegiate athletes for an academic year pursuant to subdivision (b)(1) for an intercollegiate athlete's name, image, and likeness; provided, however, such data must not reveal any personally identifiable information of an intercollegiate athlete protected under state or federal law nor reveal any proprietary business information of a third party, including confidential commercial terms.

(3) The attorney general and reporter or a state agency performing an official function may review all records, materials, or other information subject to this subsection (m); provided, however, that any information obtained remains confidential and is not subject to disclosure.

(4) This subsection (m) does not prohibit voluntary disclosure by an intercollegiate athlete, the athlete's representative, an institution, an affiliated foundation, or an authorized third party.

(5) This subsection (m) is repealed on July 1, 2032.

49-7-2803.

(a) An institution's athletic association shall not:

(1) Interfere with, prohibit, restrict, or otherwise adversely affect an intercollegiate athlete's ability to earn compensation, seek representation, perform diligence, or otherwise participate in an activity described in § 49-7-2802 and shall not otherwise impact an intercollegiate athlete's eligibility or full participation in intercollegiate athletic events;

(2) Interfere with, prohibit, restrict, or otherwise punish an institution and its affiliated foundation for participating in an activity described in § 49-7-2802;

(3) Threaten, condition, or cause an institution or a governing body of this state to repeal any state law and suffer any detrimental harm, economic or otherwise, in order to participate in such association and enjoy its full rights of membership or otherwise thereunder; or

(4) Violate § 49-7-2802(b)(4); unless, in each case, this part is invalidated or rendered unenforceable by operation of law. The attorney general and reporter may bring any appropriate action or proceeding against an institution's athletic association in any court of competent jurisdiction pursuant to this part.

(b) This section does not authorize, create, or afford any private cause of action, liability, or basis for injunctive or equitable relief by any private person or entity by virtue of such party's or entity's relationship with an institution's athletic association.

49-7-2804.

(a) Notwithstanding §§ 49-7-2802 and 49-7-2803, a private institution of higher education and an athletic association of which the private institution is a member may, upon mutual agreement between the institution and the athletic association, opt out of the requirements of § 49-7-2802(b)(3) or (b)(4) or § 49-7-2803 with respect to the athletic association's common rules, bylaws, standards, procedures, policies, or guidelines pertaining to intercollegiate athletes enrolled at the private institution; provided, that no private institution's agreement can modify or prevent the application of this chapter with regard to the athletic association and its relationship to other institutions or other intercollegiate athletes.

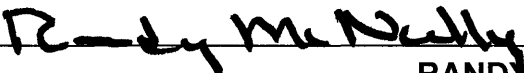
(b) The private institution shall provide notice to all intercollegiate athletes enrolled at the institution and all members of the relevant athletic association described in subsection (a) of any mutual election to opt out of any provision of this part within the earlier of thirty (30) days of the mutual election or thirty (30) days of an intercollegiate athlete's first enrollment at the institution where the athlete intends to participate in the institution's athletic program.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 536

PASSED: April 21, 2025


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 1st day of May 2025


BILL LEE, GOVERNOR