

117TH CONGRESS
1ST SESSION

H. R. 3379

To establish a government corporation to oversee student athlete agents and third-party licensees of student athlete publicity rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2021

Mr. CHABOT introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To establish a government corporation to oversee student athlete agents and third-party licensees of student athlete publicity rights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Modernizing the Collegiate Student Athlete Experience
6 Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Establishment of National Intercollegiate Compensation Corporation.

- Sec. 3. Oversight of athlete agents and third-party licensees.
 Sec. 4. Covered compensation provided by third parties.
 Sec. 5. Enforcement by Federal Trade Commission.
 Sec. 6. Ability of student athletes to enter into agency contracts and name, image, and likeness agreements.
 Sec. 7. Role of intercollegiate athletics associations and conferences.
 Sec. 8. Employment matters.
 Sec. 9. Limitation of liability.
 Sec. 10. Preemption.
 Sec. 11. Definitions.

1 **SEC. 2. ESTABLISHMENT OF NATIONAL INTERCOLLEGIATE**
 2 **COMPENSATION CORPORATION.**

3 (a) ESTABLISHMENT.—There is established a govern-
 4 ment corporation, to be known as the “National Intercolle-
 5 giate Compensation Corporation”, which shall not for any
 6 purpose be an agency or instrumentality of the United
 7 States Government and shall be subject to the provisions
 8 of this Act.

9 (b) MEMBERSHIP IN CORPORATION.—

10 (1) IN GENERAL.—The members of the Cor-
 11 poration shall be institutions of higher education.

12 (2) ELIGIBILITY.—The criteria for an institu-
 13 tion of higher education to be eligible to be a mem-
 14 ber of the Corporation shall be provided in the con-
 15 stitution and bylaws of the Corporation.

16 (c) BOARD OF DIRECTORS.—

17 (1) IN GENERAL.—The Corporation shall be
 18 governed by a Board of Directors.

19 (2) MEMBERSHIP.—

1 (A) IN GENERAL.—The Board shall be
2 composed of the following:

3 (i) One representative from each of
4 the top 10 conferences in annual revenue
5 (as determined under subparagraph (B)),
6 who shall be chosen by the conference and
7 shall serve a term of 3 years.

8 (ii) One representative from each of
9 the 5 geographic regions of institutions of
10 higher education that are not members of
11 a conference described in clause (i), who
12 shall be chosen by the institutions of high-
13 er education of the region and shall serve
14 a term of 3 years.

15 (iii) Two former corporate executives,
16 who shall be selected as provided in sub-
17 paragraph (D) and shall serve a term of 2
18 years.

19 (iv) Three representatives of an inter-
20 collegiate athletics association, who shall
21 be selected by the association and shall
22 serve a term to be determined by the asso-
23 ciation.

24 (v) One former student athlete from
25 each of the 5 geographic regions, who shall

1 be chosen by vote of the current student
2 athletes in the region and shall serve a
3 term of 3 years.

4 (B) DETERMINATION OF ANNUAL REV-
5 ENUE.—For purposes of subparagraph (A)(i),
6 the annual revenue of a conference—

7 (i) except as provided in clause (ii),
8 shall be the average of the annual revenue
9 of the conference published in intercolle-
10 giate athletics association financial data
11 for the 3 most recent years for which pub-
12 lished intercollegiate athletics association
13 financial data is available; and

14 (ii) after the date that is 5 years after
15 the date of the enactment of this Act, may
16 be determined using the method described
17 in clause (i) or by an alternative method
18 established by the Board.

19 (C) DETERMINATION OF 5 GEOGRAPHIC
20 REGIONS.—For purposes of subparagraph (A),
21 the 5 geographic regions shall be determined by
22 an intercollegiate athletics association.

23 (D) SELECTION OF FORMER CORPORATE
24 EXECUTIVE MEMBERS.—The members of the

1 Board described in subparagraph (A)(iii) shall
2 be selected—

3 (i) in the case of the members initially
4 serving under such subparagraph, by an
5 intercollegiate athletics association; and

6 (ii) in the case of any members subse-
7 quently serving under such subparagraph,
8 by the Board in accordance with criteria
9 for selection that the Board shall establish.

10 (3) CHAIR.—The Chair of the Board shall be
11 selected by the Board from among the members of
12 the Board.

13 (4) MEETINGS.—The Board shall hold at least
14 2 in-person meetings each year.

15 (5) MAJORITY VOTE.—Any decision of the
16 Board shall require an affirmative vote by a majority
17 of the members of the Board present at the meeting.

18 (6) SUBCOMMITTEES.—The Board may create
19 subcommittees to oversee adjudications, investiga-
20 tions, and other matters before the Board.

21 (7) DISCLOSURES TO COMMISSION.—Each
22 member of the Board shall file an annual disclosure
23 with the Commission to limit conflicts of interest.

24 (8) COMPENSATION.—Members of the Board
25 shall serve without pay but may receive reimburse-

1 ment from the Corporation for travel, lodging, and
2 meal expenses incurred as a result of official duties
3 performed as members of the Board.

4 (d) FUNDING.—

5 (1) FEES; SELF-FUNDING.—The Corporation
6 shall be funded by fees collected from registered ath-
7 lete agents and registered third-party licensees, or
8 from athlete agents and third-party licensees in con-
9 nection with application for registration with the
10 Corporation.

11 (2) NO FUNDING FROM INSTITUTIONS OF HIGH-
12 ER EDUCATION OR FEDERAL GOVERNMENT.—The
13 Corporation may not receive any funds from an in-
14 stitution of higher education or the Federal Govern-
15 ment.

16 (3) USE OF FUNDS.—The Corporation may
17 only use funds received by the Corporation to—

18 (A) carry out the functions of the Corpora-
19 tion under this Act; or

20 (B) promote intercollegiate athletics.

21 (e) GOVERNANCE AND POWERS.—

22 (1) CONSTITUTION AND BYLAWS.—The Board
23 shall adopt a constitution and bylaws for the Cor-
24 poration.

1 (2) GENERAL CORPORATE POWERS.—The Cor-
2 poration may—

3 (A) establish and maintain offices to con-
4 duct the affairs of the Corporation;

5 (B) enter into contracts, and accept gifts,
6 legacies, and devises, in furtherance of the du-
7 ties of the Corporation under this Act;

8 (C) acquire, own, lease, encumber, and
9 transfer property as necessary to carry out the
10 duties of the Corporation under this Act;

11 (D) borrow money, issue instruments of in-
12 debtedness, and secure its obligations by grant-
13 ing security interests in its property as nec-
14 essary to carry out the duties of the Corpora-
15 tion under this Act;

16 (E) publish a magazine, newsletter, and
17 other publications consistent with the duties of
18 the Corporation under this Act;

19 (F) approve and revoke membership in the
20 Corporation; and

21 (G) conduct any other activity necessary
22 and proper to carry out the duties of the Cor-
23 poration under this Act.

24 (f) RESTRICTIONS.—

1 (1) PROFIT AND STOCK.—The Corporation may
2 not engage in business for profit or issue stock.

3 (2) POLITICAL ACTIVITIES.—The Corporation
4 shall be nonpolitical and may not promote or oppose
5 the candidacy of an individual seeking public office.

6 (g) HEADQUARTERS, PRINCIPAL OFFICE, AND
7 MEETINGS.—The Corporation shall maintain its principal
8 office and national headquarters in a location in the
9 United States decided by the Corporation. The Corpora-
10 tion may hold its annual and special meetings in the places
11 decided by the Corporation.

12 **SEC. 3. OVERSIGHT OF ATHLETE AGENTS AND THIRD-**
13 **PARTY LICENSEES.**

14 (a) REGISTRATION REQUIRED.—

15 (1) ATHLETE AGENTS.—It shall be unlawful for
16 an athlete agent to enter into an agency contract
17 with a student athlete, or to directly or indirectly re-
18 cruit or solicit a student athlete to enter into an
19 agency contract, unless such athlete agent is a reg-
20 istered athlete agent.

21 (2) THIRD-PARTY LICENSEES.—It shall be un-
22 lawful for a third-party licensee to license publicity
23 rights from any student athlete or group of student
24 athletes, unless such third-party licensee is a reg-
25 istered third-party licensee.

1 (b) RULES FOR ATHLETE AGENTS AND THIRD-
2 PARTY LICENSEES.—

3 (1) IN GENERAL.—The Board shall adopt rules
4 that—

5 (A) provide for how athlete agents and
6 third-party licensees may register with the Cor-
7 poration; and

8 (B) govern the conduct of registered ath-
9 lete agents and registered third-party licensees.

10 (2) BIENNIAL DISCLOSURES.—The rules adopt-
11 ed under paragraph (1) shall require each registered
12 athlete agent and each registered third-party li-
13 censee to file with the Corporation a biennial disclo-
14 sure that lists each agency contract or name, image,
15 and likeness agreement entered into by such athlete
16 agent or third-party licensee during the period cov-
17 ered by the disclosure and summarizes the material
18 terms of such contract or agreement, including any
19 terms relating to price or compensation.

20 (3) COMPLIANCE TESTS.—The rules adopted
21 under paragraph (1) shall require each registered
22 athlete agent and each registered third-party li-
23 censee to take and pass, at least every 2 years, a
24 compliance test developed by the Corporation that
25 evaluates—

1 (A) the ability of the athlete agent or
2 third-party licensee to comply with the rules
3 adopted under paragraph (1) and approved
4 under paragraph (6); and

5 (B) the compliance of the athlete agent or
6 third-party licensee with such rules during the
7 preceding 2-year period.

8 (4) LIMITATION ON DURATION OF CONTRACTS
9 AND AGREEMENTS.—The rules adopted under para-
10 graph (1) shall prohibit a registered athlete agent or
11 registered third-party licensee from entering into an
12 agency contract or name, image, and likeness agree-
13 ment with a student athlete unless such contract or
14 agreement—

15 (A) has a term of not more than 5 years;
16 and

17 (B) permits either party to terminate such
18 contract or agreement without penalty at any
19 time before the end of the term of such contract
20 or agreement.

21 (5) ARBITRATION.—The rules adopted under
22 paragraph (1) may require a registered athlete agent
23 or registered third-party licensee to submit a dispute
24 with a student athlete under an agency contract or

1 name, image, and likeness agreement to arbitration
2 by a neutral party.

3 (6) RULES SUBJECT TO COMMISSION AP-
4 PROVAL.—

5 (A) IN GENERAL.—A rule adopted under
6 paragraph (1) or any amendment to or repeal
7 of such a rule (in this paragraph referred to as
8 a “proposed rule”) may not take effect unless
9 such proposed rule has been approved by the
10 Commission.

11 (B) FILING WITH COMMISSION.—The
12 Board shall file with the Commission, in accord-
13 ance with such rules as the Commission may
14 prescribe, copies of any proposed rule.

15 (C) PUBLICATION.—The Commission shall
16 publish a proposed rule filed under subpara-
17 graph (B) and provide interested persons an op-
18 portunity to comment.

19 (D) TIMELINE.—Not later than 45 days
20 after a proposed rule is published under sub-
21 paragraph (C), the Commission shall approve or
22 disapprove the proposed rule.

23 (E) STANDARD FOR APPROVAL.—The
24 Commission shall approve a proposed rule if the
25 Commission finds that the proposed rule is con-

1 sistent with the requirements and purposes of
2 this Act.

3 (c) DATABASE OF REGISTERED ATHLETE AGENTS
4 AND REGISTERED THIRD-PARTY LICENSEES.—The Cor-
5 poration shall maintain, and make publicly available on
6 the website of the Corporation, a searchable and updated
7 database of registered athlete agents and registered third-
8 party licensees, including the biannual disclosures filed by
9 each such agent or licensee under subsection (b)(2).

10 (d) INVESTIGATIONS.—

11 (1) IN GENERAL.—The Corporation may inves-
12 tigate violations of subsection (a) and the rules ap-
13 proved under subsection (b)(6).

14 (2) SUBPOENA POWER.—

15 (A) IN GENERAL.—The Board may issue
16 subpoenas requiring the attendance and testi-
17 mony of witnesses and the production of any
18 evidence relating to any matter that the Cor-
19 poration is empowered to investigate by para-
20 graph (1). The attendance of witnesses and the
21 production of evidence may be required from
22 any place within the United States at any des-
23 ignated place of hearing within the United
24 States.

1 (B) FAILURE TO OBEY A SUBPOENA.—If a
2 person refuses to obey a subpoena issued under
3 subparagraph (A), the Board may apply to a
4 United States district court for an order requir-
5 ing such person to appear before the Board to
6 give testimony, produce evidence, or both, relat-
7 ing to the matter under investigation. The ap-
8 plication may be made within the judicial dis-
9 trict where the hearing is conducted or where
10 such person is found, resides, or transacts busi-
11 ness. Any failure to obey the order of the court
12 may be punished by the court as civil contempt.

13 (C) SERVICE OF SUBPOENAS.—The sub-
14 poenas of the Board shall be served in the man-
15 ner provided for subpoenas issued by a United
16 States district court under the Federal Rules of
17 Civil Procedure for the United States district
18 courts.

19 (D) SERVICE OF PROCESS.—All process of
20 any court to which application is made under
21 subparagraph (B) may be served in the judicial
22 district in which the person required to be
23 served resides or may be found.

24 (e) ENFORCEMENT OF RULES BY BOARD.—

1 (1) IN GENERAL.—If, after notice to a reg-
2 istered athlete agent or a registered third-party li-
3 censee and an opportunity for such agent or licensee
4 to respond, the Board finds that such agent or li-
5 censee has violated a rule approved under subsection
6 (b)(6), the Board may suspend the registration of
7 such agent or licensee for not more than 3 years.

8 (2) APPEAL TO COMMISSION.—

9 (A) IN GENERAL.—In accordance with
10 such rules as the Commission may prescribe,
11 any registered athlete agent or registered third-
12 party licensee subject to a final decision by the
13 Board under paragraph (1) may obtain review
14 by the Commission of such decision. The Com-
15 mission may uphold or reverse such decision in
16 whole or in part, including by reducing the pe-
17 riod of any suspension of the registration of the
18 athlete agent or third-party licensee.

19 (B) STANDARD OF REVIEW.—In any re-
20 view of a decision of the Board under subpara-
21 graph (A), except when the Commission con-
22 siders it necessary for the Commission to review
23 the decision de novo—

1 (i) the findings of the Board as to the
2 facts, if supported by evidence, shall be
3 conclusive; and

4 (ii) the Commission shall apply the
5 same standard of review as a reviewing
6 court under section 706 of title 5, United
7 States Code.

8 (f) REFERRAL OF VIOLATIONS OF LAW TO APPRO-
9 PRIATE FEDERAL AGENCIES.—If the Board becomes
10 aware of a violation or potential violation of Federal law
11 by an athlete agent, third-party licensee, institution of
12 higher education, intercollegiate athletics association, con-
13 ference, or student athlete, the Board shall refer the mat-
14 ter to the appropriate Federal agency.

15 (g) BEST PRACTICES AND TEMPLATES FOR CON-
16 TRACTS AND AGREEMENTS.—The Corporation shall—

17 (1) conduct studies to develop best practices
18 and templates for agency contracts and name,
19 image, and likeness agreements; and

20 (2) make the best practices and templates de-
21 veloped under paragraph (1), including any updates
22 to such best practices and templates, publicly avail-
23 able on the website of the Corporation.

1 **SEC. 4. COVERED COMPENSATION PROVIDED BY THIRD**
2 **PARTIES.**

3 The provision of covered compensation to a student
4 athlete who is enrolled, or may in the future enroll, in an
5 institution of higher education—

6 (1) may only be promised, paid, or permitted if
7 the covered compensation is sourced from, and pro-
8 vided at the discretion of, a third party; and

9 (2) may not be promised, paid, or permitted to
10 induce—

11 (A) the recruitment of a student athlete to
12 any institution of higher education or group of
13 institutions of higher education; or

14 (B) a student athlete to continue attending
15 a particular institution of higher education.

16 **SEC. 5. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

17 (a) **UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—**

18 A violation of section 3(a) or 4, or a rule prescribed under
19 such section, shall be treated as a violation of a rule defin-
20 ing an unfair or deceptive act or practice prescribed under
21 section 18(a)(1)(B) of the Federal Trade Commission Act
22 (15 U.S.C. 57a(a)(1)(B)).

23 (b) **ACTIONS BY COMMISSION.—**The Commission
24 shall enforce sections 3(a) and 4, and the rules prescribed
25 under such sections, in the same manner, by the same
26 means, and with the same jurisdiction, powers, and duties

1 as though all applicable terms and provisions of the Fed-
2 eral Trade Commission Act (15 U.S.C. 41 et seq.) were
3 incorporated into and made a part of this Act.

4 (c) RULEMAKING AUTHORITY.—The Commission
5 may prescribe rules in accordance with section 553 of title
6 5, United States Code, to implement this Act.

7 **SEC. 6. ABILITY OF STUDENT ATHLETES TO ENTER INTO**
8 **AGENCY CONTRACTS AND NAME, IMAGE, AND**
9 **LIKENESS AGREEMENTS.**

10 (a) AGENCY CONTRACTS.—An intercollegiate ath-
11 letics association, a conference, or an institution of higher
12 education may not punish or prohibit the participation of
13 a student athlete in an amateur intercollegiate athletic
14 event or amateur intercollegiate athletic competition based
15 on the student athlete having entered into an agency con-
16 tract with a registered athlete agent.

17 (b) NAME, IMAGE, AND LIKENESS AGREEMENTS.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), an intercollegiate athletics association, a
20 conference, or an institution of higher education may
21 not punish or prohibit the participation of a student
22 athlete in an amateur intercollegiate athletic event
23 or amateur intercollegiate athletic competition based
24 on the student athlete having entered into a name,

1 image, and likeness agreement with a registered
2 third-party licensee.

3 (2) EXCEPTIONS.—An intercollegiate athletics
4 association, a conference, or an institution of higher
5 education may prohibit the participation of a stu-
6 dent athlete in an amateur intercollegiate athletic
7 event or amateur intercollegiate athletic competition
8 based on the student athlete having entered into a
9 name, image, and likeness agreement with a reg-
10 istered third-party licensee if—

11 (A) the agreement violates—

12 (i) the code of student conduct of
13 such intercollegiate athletics association,
14 conference, or institution of higher edu-
15 cation; or

16 (ii) section 4, a rule prescribed under
17 such section, or a rule approved under sec-
18 tion 3(b)(6); or

19 (B) the student athlete fails to provide a
20 copy of the agreement to an institution of high-
21 er education as required by paragraph (4).

22 (3) LIMITATION.—During and immediately be-
23 fore and after an amateur intercollegiate athletic
24 event or amateur intercollegiate athletic competition,
25 an institution of higher education may prohibit a

1 student athlete enrolled in such institution from en-
2 gaging in promotional or endorsement activities in
3 connection with a name, image, and likeness agree-
4 ment.

5 (4) DISCLOSURES.—

6 (A) ENROLLED ATHLETES.—With respect
7 to a student athlete enrolled in an institution of
8 higher education who enters into a name,
9 image, and likeness agreement, the student ath-
10 lete shall, not later than 7 days after entering
11 into the agreement, provide to the institution of
12 higher education a copy of the agreement.

13 (B) RECRUITED ATHLETES.—With respect
14 to a student athlete who is or may be recruited
15 to attend, but is not yet enrolled in, an institu-
16 tion of higher education and who enters into a
17 name, image, and likeness agreement, the stu-
18 dent athlete shall, before signing a letter of in-
19 tent or athletics aid agreement or paying an ad-
20 missions acceptance fee, provide to the institu-
21 tion of higher education a copy of all current
22 and expired name, image, and likeness agree-
23 ments entered into by the student athlete.

24 (c) ENFORCEMENT.—

1 (1) COMPLAINT BY STUDENT ATHLETE.—A
2 student athlete may file with the Board a complaint
3 alleging that an intercollegiate athletics association,
4 a conference, or an institution of higher education
5 has punished or prohibited the participation of the
6 student athlete in an amateur intercollegiate athletic
7 event or amateur intercollegiate athletic competition
8 in violation of subsection (a) or (b).

9 (2) ORDER BY BOARD.—After providing notice
10 and an opportunity to respond to an intercollegiate
11 athletics association, conference, or institution of
12 higher education against which a complaint of a stu-
13 dent athlete is filed under paragraph (1), the Board
14 shall issue an order—

15 (A) stating the findings of the Board re-
16 garding whether the association, conference, or
17 institution has punished or prohibited the par-
18 ticipation of the student athlete in violation of
19 subsection (a) or (b); and

20 (B) if the Board finds that the association,
21 conference, or institution has punished or pro-
22 hibited the participation of the student athlete
23 in violation of subsection (a) or (b), directing
24 the association, conference, or institution—

1 (i) if such event or competition has
2 not concluded when the order of the Board
3 is issued, to remove the punishment or
4 prohibition in such event or competition;
5 and

6 (ii) to remove or not impose any simi-
7 lar punishment or prohibition with respect
8 to the agency contract or name, image,
9 and likeness agreement in question in any
10 such events or competitions in the future.

11 (3) APPEAL TO COMMISSION.—

12 (A) IN GENERAL.—In accordance with
13 such rules as the Commission may prescribe,
14 any student athlete or intercollegiate athletics
15 association, conference, or institution of higher
16 education subject to a final order of the Board
17 under paragraph (2) may obtain review of the
18 order by the Commission. The Commission may
19 uphold or reverse the order in whole or in part,
20 including by modifying or adding a direction to
21 the association, conference, or institution under
22 subparagraph (B) of such paragraph.

23 (B) STANDARD OF REVIEW.—In any re-
24 view of an order of the Board under subpara-
25 graph (A), except when the Commission con-

1 siders it necessary for the Commission to review
2 the order de novo—

3 (i) the findings of the Board as to the
4 facts, if supported by evidence, shall be
5 conclusive; and

6 (ii) the Commission shall apply the
7 same standard of review as a reviewing
8 court under section 706 of title 5, United
9 States Code.

10 (C) JURISDICTION OF COMMISSION.—Not-
11 withstanding sections 4 and 5(a)(2) of the Fed-
12 eral Trade Commission Act (15 U.S.C. 44;
13 45(a)(2)) and any other jurisdictional limitation
14 of the Commission, the Commission may review
15 under subparagraph (A) an order of the Board
16 that applies to an intercollegiate athletics asso-
17 ciation, conference, or institution of higher edu-
18 cation that is—

19 (i) not organized to carry on business
20 for its own profit or that of its members;

21 or

22 (ii) a public institution.

23 (4) INJUNCTIVE RELIEF.—If, after the time for
24 appeal to the Commission of an order of the Board
25 under paragraph (2) has expired or the Commission

1 has issued a final decision in any such appeal, an
2 intercollegiate athletics association, conference, or
3 institution of higher education fails to comply with
4 the order, the student athlete who filed the com-
5 plaint to which the order relates may bring in an ap-
6 propriate district court of the United States a civil
7 action to obtain an injunction directing the associa-
8 tion, conference, or institution to comply with the
9 order.

10 (d) CONFORMING AMENDMENT.—Section 3(b)(3) of
11 the Sports Agent Responsibility and Trust Act (15 U.S.C.
12 7802(b)(3)) is amended by striking “Warning to Student
13 Athlete” and all that follows through “Within” and insert-
14 ing “Notice to Student Athlete: Within”.

15 **SEC. 7. ROLE OF INTERCOLLEGIATE ATHLETICS ASSOCIA-**
16 **TIONS AND CONFERENCES.**

17 Nothing in this Act may be construed to prohibit an
18 intercollegiate athletics association or conference from—

19 (1) adopting rules, consistent with this Act and
20 the rules approved under section 3(b)(6); and

21 (2) enforcing the rules adopted by the associa-
22 tion or conference under paragraph (1) by—

23 (A) declaring ineligible for competition a
24 student athlete who, directly or indirectly (in-
25 cluding through a family member of the student

1 athlete acting on behalf of the student athlete),
2 receives payments in violation of this Act or any
3 such rule; and

4 (B) withholding 1 or more revenue dis-
5 tributions from an institution of higher edu-
6 cation that makes payments in violation of this
7 Act or any such rule.

8 **SEC. 8. EMPLOYMENT MATTERS.**

9 Notwithstanding any other provision of Federal or
10 State law, a student athlete may not be considered an em-
11 ployee of an intercollegiate athletics association, a con-
12 ference, or an institution of higher education based on the
13 participation of such student athlete in amateur intercolle-
14 giate athletic events or amateur intercollegiate athletic
15 competitions.

16 **SEC. 9. LIMITATION OF LIABILITY.**

17 An intercollegiate athletics association, a conference,
18 or an institution of higher education that complies with
19 the requirements under this Act shall not be subject to
20 liability, based on action taken by the intercollegiate ath-
21 letics association, conference, or institution of higher edu-
22 cation before the date of the enactment of this Act,
23 under—

24 (1) any Federal or State statute relating to
25 trade or competition; or

1 (2) any Federal or State statute relating to
2 tortious interference based on concepts of unfair
3 competition.

4 **SEC. 10. PREEMPTION.**

5 No State or political subdivision of a State may es-
6 tablish or continue in effect any law, regulation, rule, re-
7 quirement, or standard that governs or regulates the com-
8 pensation, publicity rights, employment status, or eligi-
9 bility for competition of a student athlete, including any
10 provision that governs or regulates the commercial use of
11 the name, image, or likeness of a student athlete.

12 **SEC. 11. DEFINITIONS.**

13 In this Act:

14 (1) **AGENCY CONTRACT.**—The term “agency
15 contract” means a written agreement in which a stu-
16 dent athlete authorizes an individual to negotiate or
17 solicit on behalf of the student athlete a name,
18 image, and likeness agreement.

19 (2) **AMATEUR INTERCOLLEGIATE ATHLETIC**
20 **COMPETITION.**—The term “amateur intercollegiate
21 athletic competition” means any varsity game, meet,
22 or other competition between or among teams spon-
23 sored by institutions of higher education.

24 (3) **AMATEUR INTERCOLLEGIATE ATHLETIC**
25 **EVENT.**—

1 (A) IN GENERAL.—The term “amateur
2 intercollegiate athletic event” means a game,
3 meet, competition, banquet, practice, condi-
4 tioning session, media session, or any other
5 event relating to varsity intercollegiate athletics
6 that has been organized or authorized by an
7 athletics representative of an institution of
8 higher education or by an intercollegiate ath-
9 letics association or conference, regardless of
10 whether such event occurs on or off the campus
11 of an institution of higher education or during
12 or outside the season for competition.

13 (B) INCLUSION.—The term “amateur
14 intercollegiate athletic event” includes travel to
15 and from any event described in subparagraph
16 (A).

17 (4) ATHLETE AGENT.—

18 (A) IN GENERAL.—The term “athlete
19 agent” means an individual who enters into an
20 agency contract with a student athlete, or di-
21 rectly or indirectly recruits or solicits a student
22 athlete to enter into an agency contract.

23 (B) EXCLUSION.—The term “athlete
24 agent” does not include a spouse, parent, sib-
25 ling, grandparent, or guardian of such student

1 athlete, any legal counsel for purposes other
2 than that of representative agency, or an indi-
3 vidual acting solely on behalf of a professional
4 sports team or professional sports organization.

5 (5) ATHLETICS BOOSTER.—The term “athletics
6 booster” means any individual or entity that, di-
7 rectly or indirectly, through any other individual or
8 entity or in any other manner—

9 (A) has provided 1 or more donations ex-
10 ceeding \$5,000, in the aggregate, to obtain sea-
11 son tickets for any sport at an institution of
12 higher education;

13 (B) has made 1 or more financial contribu-
14 tions exceeding \$5,000, in the aggregate, to the
15 athletics department or other athletics manage-
16 ment organization of an institution of higher
17 education; or

18 (C) has assisted, or been requested by an
19 employee of an institution of higher education
20 to assist, in the recruitment of a student ath-
21 lete.

22 (6) BOARD.—The term “Board” means the
23 Board of Directors of the Corporation.

24 (7) COMMISSION.—The term “Commission”
25 means the Federal Trade Commission.

1 (8) CONFERENCE.—The term “conference”
2 means any organization or association that—

3 (A) has as members 2 or more institutions
4 of higher education; and

5 (B) arranges championships and sets rules
6 for varsity intercollegiate sports competition.

7 (9) CORPORATION.—The term “Corporation”
8 means the National Intercollegiate Compensation
9 Corporation established by section 2(a).

10 (10) COST OF ATTENDANCE.—The term “cost
11 of attendance”—

12 (A) has the meaning given the term in sec-
13 tion 472 of the Higher Education Act of 1965
14 (20 U.S.C. 10871l); and

15 (B) shall be calculated by the financial aid
16 office of each institution applying the same
17 standards, policies, and procedures for all stu-
18 dents, including such amounts paid or provided
19 by the institution for undergraduate and grad-
20 uate studies at the institution.

21 (11) COVERED COMPENSATION.—

22 (A) IN GENERAL.—The term “covered
23 compensation” means any form of payment or
24 remuneration, including cash, benefits, awards,

1 gifts, in-kind contributions, and any other form
2 of payment or remuneration.

3 (B) INCLUSIONS.—The term “covered
4 compensation” includes social media compensa-
5 tion and payments for licensing or use of pub-
6 licity rights or for other intellectual or intan-
7 gible property rights under Federal or State
8 law.

9 (C) EXCLUSIONS.—The term “covered
10 compensation” does not include the payment or
11 provision of the following:

12 (i) Tuition, room, board, books, fees,
13 and personal expenses paid or provided by
14 an institution of higher education up to the
15 full cost of attendance.

16 (ii) Federal Pell Grants and other
17 State and Federal grants unrelated to, and
18 not awarded with respect to, participation
19 in varsity intercollegiate sports competi-
20 tion.

21 (iii) Health insurance and the costs of
22 health care wholly or partly self-funded by
23 an intercollegiate athletics association, a
24 conference, or an institution of higher edu-
25 cation.

1 (iv) Disability and loss of value insur-
2 ance that is wholly or partly self-funded by
3 an intercollegiate athletics association, a
4 conference, or an institution of higher edu-
5 cation.

6 (v) Career counseling or job place-
7 ment services available to all students at
8 an institution of higher education.

9 (vi) Payment of hourly wages and
10 benefits for work actually performed (and
11 not for participation in intercollegiate ath-
12 letics) at a rate commensurate with the
13 prevailing rate in the locality of an institu-
14 tion of higher education for similar work.

15 (12) FORMER STUDENT ATHLETE.—The term
16 “former student athlete” means a student athlete
17 who is no longer eligible to participate in intercolle-
18 giate athletics.

19 (13) IMAGE.—The term “image”, with respect
20 to a student athlete, means a picture or video of the
21 student athlete.

22 (14) INSTITUTION OF HIGHER EDUCATION.—
23 The term “institution of higher education” means
24 an institution of higher education (as defined in sec-
25 tion 101 of the Higher Education Act of 1965 (20

1 U.S.C. 1001)) that sponsors varsity intercollegiate
2 sports competition in the United States.

3 (15) INTERCOLLEGIATE ATHLETICS.—The term
4 “intercollegiate athletics” means sports played at the
5 collegiate level for which eligibility requirements for
6 participation by student athletes are established by
7 an association for the promotion or regulation of col-
8 legiate athletics.

9 (16) INTERCOLLEGIATE ATHLETICS ASSOCIA-
10 TION.—The term “intercollegiate athletics associa-
11 tion” means any organization or association that—

12 (A) has as members 2 or more conferences;

13 and

14 (B) arranges championships and sets rules
15 for varsity intercollegiate sports competition.

16 (17) LIKENESS.—The term “likeness”, with re-
17 spect to a student athlete, means a physical or dig-
18 ital depiction or representation of the student ath-
19 lete.

20 (18) LOSS OF VALUE INSURANCE.—The term
21 “loss of value insurance” means insurance that pro-
22 tects the future contract value of a student athlete
23 from decreasing below a predetermined amount due
24 to significant injury or illness suffered by the stu-

1 dent athlete during the designated coverage period
2 of the insurance policy.

3 (19) NAME.—The term “name”, with respect to
4 a student athlete, means the first or last name of,
5 the nickname of, or any other personal identifier of
6 or directly related to the student athlete, when used
7 in a context that reasonably identifies the student
8 athlete with particularity.

9 (20) NAME, IMAGE, AND LIKENESS AGREE-
10 MENT.—The term “name, image, and likeness agree-
11 ment” means a contract or similar arrangement be-
12 tween a student athlete and a third-party licensee
13 regarding the commercial use of the name, image, or
14 likeness of the student athlete.

15 (21) PUBLICITY RIGHT.—The term “publicity
16 right”—

17 (A) means a right that is recognized under
18 a Federal or State law that permits an indi-
19 vidual to control and profit from the commer-
20 cial use of the name, image, or likeness of the
21 individual; and

22 (B) includes any right that is licensed
23 under a name, image, and likeness agreement.

24 (22) REGISTERED ATHLETE AGENT.—The term
25 “registered athlete agent” means an athlete agent

1 that is registered with the Corporation under section
2 3.

3 (23) REGISTERED THIRD-PARTY LICENSEE.—
4 The term “registered third-party licensee” means a
5 third-party licensee that is registered with the Cor-
6 poration under section 3.

7 (24) SOCIAL MEDIA COMPENSATION.—The term
8 “social media compensation” includes all forms of
9 payment for engagement on social media received by
10 a student athlete as a result of the use of the name,
11 image, or likeness of the student athlete.

12 (25) STATE.—The term “State” means each
13 State of the United States, the District of Columbia,
14 each commonwealth, territory, or possession of the
15 United States, and each federally recognized Indian
16 Tribe.

17 (26) STUDENT ATHLETE.—The term “student
18 athlete” means any individual enrolled in an institu-
19 tion of higher education who participates, or any in-
20 dividual who may be recruited to enroll in such an
21 institution and participate, as a team member or
22 competitor in varsity intercollegiate sports competi-
23 tion sponsored by the institution of higher education.

24 (27) THIRD PARTY.—The term “third party”
25 means an individual or entity that—

1 (A) is not an athletics department or an
2 athletics booster of an institution of higher edu-
3 cation; and

4 (B) is unaffiliated with an athletics depart-
5 ment or an athletics booster of an institution of
6 higher education.

7 (28) THIRD-PARTY LICENSEE.—

8 (A) IN GENERAL.—The term “third-party
9 licensee” means any individual or entity that li-
10 censes publicity rights from any student athlete
11 or group of student athletes.

12 (B) EXCLUSION.—The term “third-party
13 licensee” does not include any intercollegiate
14 athletics association, conference, or institution
15 of higher education.

16 (29) UNAFFILIATED.—With respect to 2 or
17 more individuals or entities, the term “unaffiliated”
18 means that the individuals or entities do not share
19 interrelated operations, common management, cen-
20 tralized control of labor relations, or common owner-
21 ship or financial control.

22 (30) VARSITY INTERCOLLEGIATE SPORTS COM-
23 PETITION.—The term “varsity intercollegiate sports
24 competition” means competition between and among
25 collegiate sports teams that principally represent an

- 1 institution of higher education at the highest level of
- 2 competition.

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