

By: Leach

H.B. No. 1891

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the compensation and professional representation of  
3 student athletes participating in intercollegiate athletic  
4 programs at certain institutions of higher education.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The legislature finds and declares the  
7 following:

8 (1) intercollegiate athletics are an essential part of  
9 the fabric of this state;

10 (2) the competitive integrity of intercollegiate  
11 athletics is of vital importance;

12 (3) the United States Congress has failed to act to  
13 provide uniform guidance to the states on the matter of  
14 intercollegiate athletes receiving compensation in exchange for  
15 the use of the athlete's name, image, or likeness; and

16 (4) the United States Congress must act on this matter  
17 to ensure the competitive integrity of intercollegiate athletics.

18 SECTION 2. Subchapter 2, Chapter 51, Education Code, is  
19 amended by adding Section 51.9246 to read as follows:

20 Sec. 51.9246. COMPENSATION AND PROFESSIONAL REPRESENTATION  
21 OF STUDENT ATHLETES PARTICIPATING IN INTERCOLLEGIATE ATHLETIC  
22 PROGRAMS. (a) In this section:

23 (1) "Athlete agent" has the meaning assigned by  
24 Section 2051.001, Occupations Code.

1           (2) "General academic teaching institution" and  
2 "private or independent institution of higher education" have the  
3 meanings assigned by Section 61.003.

4           (b) This section applies only to:

5                 (1) a general academic teaching institution; or

6                 (2) a private or independent institution of higher  
7 education.

8           (c) An institution to which this section applies may not:

9                 (1) adopt or enforce a policy, requirement, standard,  
10 or limitation that prohibits or otherwise prevents a student  
11 athlete participating in an intercollegiate athletic program at the  
12 institution from:

13                     (A) earning compensation for the use of the  
14 student athlete's name, image, or likeness when the student athlete  
15 is not engaged in official team activities; or

16                     (B) obtaining professional representation,  
17 including representation by an athlete agent or attorney, for  
18 contracts or other legal matters relating to the use of the student  
19 athlete's name, image, or likeness;

20                 (2) provide a prospective student athlete of an  
21 intercollegiate athletic program at the institution with  
22 compensation in relation to the prospective student athlete's name,  
23 image, or likeness; or

24                 (3) solicit a prospective student athlete of an  
25 intercollegiate athletic program at the institution to enroll by  
26 using the possibility of earning compensation from the use of the  
27 student athlete's name, image, or likeness.

1       (d) A scholarship, grant, or similar financial assistance  
2 awarded to a student athlete by an institution to which this section  
3 applies that covers the student athlete's cost of attendance at the  
4 institution is not compensation for purposes of this section.

5       (e) A student athlete participating in an intercollegiate  
6 athletic program at an institution to which this section applies  
7 may not be disqualified from eligibility for a scholarship, grant,  
8 or similar financial assistance awarded by the institution because  
9 the student athlete:

10           (1) earns compensation from the use of the student  
11 athlete's name, image, or likeness when the student athlete is not  
12 engaged in official team activities; or

13           (2) obtains professional representation, including  
14 representation by an athlete agent or attorney, for contracts or  
15 other legal matters relating to use of the student athlete's name,  
16 image, or likeness.

17       (f) A team contract of an athletic program at an institution  
18 to which this section applies may not prohibit or otherwise prevent  
19 a student athlete from using the student athlete's name, image, or  
20 likeness for a commercial purpose when the student athlete is not  
21 engaged in official team activities.

22       (g) Subject to Subsection (h), a student athlete  
23 participating in an intercollegiate athletic program at an  
24 institution to which this section applies:

25           (1) may enter into a contract for the student athlete's  
26 representation relating to use of the student athlete's name,  
27 image, or likeness with:

1           (A) an athlete agent who holds a certificate of  
2 registration issued under Chapter 2051, Occupations Code; or

3           (B) an attorney licensed to practice law in this  
4 state; and

5           (2) shall promptly disclose to the institution, in the  
6 manner prescribed by the institution, any contract entered into by  
7 the student athlete for use of the student athlete's name, image, or  
8 likeness.

9           (h) A student athlete participating in an intercollegiate  
10 athletic program at an institution to which this section applies  
11 may not enter into a contract for the use of the student athlete's  
12 name, image, or likeness if:

13           (1) any provision of the contract conflicts with a  
14 provision of the student athlete's team contract;

15           (2) the compensation for the use of the student  
16 athlete's name, image, or likeness exceeds the fair market value of  
17 the use of the student athlete's name, image, or likeness;

18           (3) the compensation for the use of the student  
19 athlete's name, image, or likeness is provided:

20           (A) in exchange for athletic performance or  
21 attendance at the institution;

22           (B) by the institution or a person affiliated  
23 with the institution;

24           (C) in exchange for property owned by the  
25 institution or for using intellectual property or other property  
26 owned by the institution; or

27           (D) in exchange for an endorsement of alcohol,

1 tobacco products, gambling, firearms, or a sexually oriented  
2 business as defined in Section 243.002, Local Government Code; or

3 (4) the duration of the contract extends beyond the  
4 student athlete's participation in the intercollegiate athletic  
5 program.

6 (i) An institution to which this section applies that  
7 identifies a provision in a contract disclosed to the institution  
8 by a student athlete under Subsection (g)(2) that conflicts with a  
9 provision in the student athlete's team contract shall promptly  
10 disclose the conflict to the student athlete or the student  
11 athlete's representative, if applicable.

12 (j) An athletic association, conference, or other group or  
13 organization with authority over intercollegiate athletics,  
14 including the National Collegiate Athletic Association, may not:

15 (1) prohibit or prevent a student athlete from  
16 participating in an intercollegiate athletic program at an  
17 institution to which this section applies because the student  
18 athlete:

19 (A) earns compensation from the use of the  
20 student athlete's name, image, or likeness; or

21 (B) obtains professional representation,  
22 including representation by an athlete agent or attorney, for  
23 contracts or other legal matters relating to use of the student  
24 athlete's name, image, or likeness;

25 (2) prohibit or prevent a student athlete  
26 participating in an intercollegiate athletic program at an  
27 institution to which this section applies from engaging in conduct

1 described by Subdivision (1)(A) or (B); or  
2 (3) provide a prospective student athlete of an  
3 intercollegiate athletic program at an institution to which this  
4 section applies with compensation in relation to the prospective  
5 student athlete's name, image, or likeness.

6 (k) A disclosure made by a student athlete in accordance  
7 with Subsection (g)(2) is not public information for the purposes  
8 of Chapter 552, Government Code.

9 SECTION 3. Section 2051.351, Occupations Code, is amended  
10 by adding Subsection (b-1) to read as follows:

11 (b-1) This chapter, including this section, does not  
12 prohibit an athlete agent from representing a student athlete in  
13 the use of the student athlete's name, image, or likeness in  
14 accordance with Section 51.9246, Education Code.

15 SECTION 4. Section 51.9246(f), Education Code, as added by  
16 this Act, applies only to a contract entered into, modified, or  
17 renewed on or after the effective date of this Act.

18 SECTION 5. This Act takes effect January 1, 2024.