

By: Creighton

S.B. No. 1385

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subchapter 2, Chapter 51, Education Code, is amended by adding Section 51.9246 to read as follows:

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

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

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

(b) This section applies only to:

(1) a general academic teaching institution; or
(2) a private or independent institution of higher education.

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

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

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

4 (B) obtaining professional representation,
5 including representation by an athlete agent or attorney, for
6 contracts or other legal matters relating to the use of the student
7 athlete's name, image, or likeness; or

8 (2) provide a prospective student athlete of an
9 intercollegiate athletic program at the institution with
10 compensation in relation to the prospective student athlete's name,
11 image, or likeness.

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

16 (e) A student athlete participating in an intercollegiate
17 athletic program at an institution to which this section applies
18 may not be disqualified from eligibility for a scholarship, grant,
19 or similar financial assistance awarded by the institution because
20 the student athlete:

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

24 (2) obtains professional representation, including
25 representation by an athlete agent or attorney, for contracts or
26 other legal matters relating to use of the student athlete's name,
27 image, or likeness.

1 (f) An institution to which this section applies:

2 (1) may not prescribe a team contract for an
3 intercollegiate athletic program that prohibits or otherwise
4 prevents a student athlete from using the student athlete's name,
5 image, or likeness for a commercial purpose when the student
6 athlete is not engaged in official team activities; and

7 (2) may adopt a policy requiring a team contract for an
8 intercollegiate athletic program to include a provision that
9 requires a student athlete to deposit all money paid as
10 compensation for the use of the student athlete's name, image, or
11 likeness into a trust fund to be held for the student athlete until
12 the student athlete is no longer eligible to participate in the
13 program.

14 (g) A student athlete participating in an intercollegiate
15 athletic program at an institution to which this section applies:

16 (1) shall promptly disclose to the institution, in the
17 manner prescribed by the institution, any contract entered into by
18 the student athlete for use of the student athlete's name, image, or
19 likeness;

20 (2) may not enter into a contract for the use of the
21 student athlete's name, image, or likeness if:

22 (A) any provision of the contract conflicts with
23 a provision of the student athlete's team contract;

24 (B) the compensation for the use of the student
25 athlete's name, image, or likeness exceeds the fair market value of
26 the use of the student athlete's name, image, or likeness;

27 (C) the compensation for the use of the student

1 athlete's name, image, or likeness is provided:

2 (i) in exchange for athletic performance or
3 attendance at the institution; or

4 (ii) by the institution or a person
5 affiliated with the institution; or

6 (D) the duration of the contract extends beyond
7 the student athlete's participation in the intercollegiate
8 athletic program; and

9 (3) may not enter into a contract for the student
10 athlete's representation by an athlete agent relating to use of the
11 student athlete's name, image, or likeness unless the athlete agent
12 holds a certificate of registration under Chapter 2051, Occupations
13 Code.

14 (h) An institution to which this section applies that
15 identifies a provision in a contract disclosed to the institution
16 by a student athlete under Subsection (g)(1) that conflicts with a
17 provision in the student athlete's team contract shall promptly
18 disclose the conflict to the student athlete or the student
19 athlete's representative, if applicable.

20 (i) An athletic association, conference, or other group or
21 organization with authority over intercollegiate athletics,
22 including the National Collegiate Athletic Association, may not:

23 (1) prohibit or prevent a student athlete from
24 participating in an intercollegiate athletic program at an
25 institution to which this section applies because the student
26 athlete:

27 (A) earns compensation from the use of the

1 student athlete's name, image, or likeness; or

2 (B) obtains professional representation,
3 including representation by an athlete agent or attorney, for
4 contracts or other legal matters relating to use of the student
5 athlete's name, image, or likeness;

6 (2) prohibit or prevent a student athlete
7 participating in an intercollegiate athletic program at an
8 institution to which this section applies from engaging in conduct
9 described by Subdivision (1)(A) or (B); or

10 (3) provide a prospective student athlete of an
11 intercollegiate athletic program at an institution to which this
12 section applies with compensation in relation to the prospective
13 student athlete's name, image, or likeness.

14 (j) An institution to which this section applies shall
15 require a student athlete participating in an intercollegiate
16 athletic program at the institution to attend a literacy and life
17 skills workshop at the beginning of the student's first and third
18 academic years at the institution. The workshop must be at least
19 five hours in duration and include information on financial aid,
20 debt management, time management, budgeting, and academic
21 resources available to the student athlete. The institution may
22 not during the workshop allow any provider of financial products or
23 services to:

24 (1) market, advertise, or refer the provider's
25 services to a student athlete; or

26 (2) solicit a student athlete to use the provider's
27 services.

1 SECTION 2. Section 2051.351, Occupations Code, is amended
2 by adding Subsection (b-1) to read as follows:

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

7 SECTION 3. Section 51.9246(f), Education Code, as added by
8 this Act, applies only to a contract entered into, modified, or
9 renewed on or after the effective date of this Act.

10 SECTION 4. This Act takes effect January 1, 2022.