

By: Kuempel

H.B. No. 2804

Substitute the following for H.B. No. 2804:

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C.S.H.B. No. 2804

A BILL TO BE ENTITLED

1 AN ACT

2 relating to use of the name, image, or likeness of a student athlete
3 participating in an intercollegiate athletic program at an
4 institution of higher education.

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

6 SECTION 1. Section 51.9246, Education Code, is amended by
7 adding Subsections (a-1), (c-1), (g-1), (l), (m), and (n) and
8 amending Subsections (g) and (i) to read as follows:

9 (a-1) For purposes of this section, official team
10 activities of an intercollegiate athletic program at an institution
11 to which this section applies include any activity the institution
12 designates as an official team activity.

13 (c-1) An athletic association, an athletic conference, or
14 any other group or organization with authority over an
15 intercollegiate athletic program at an institution to which this
16 section applies may not enforce a contract term, a rule, a
17 regulation, a standard, or any other requirement that prohibits the
18 institution from participating in intercollegiate athletics or
19 otherwise penalizes the institution or the institution's
20 intercollegiate athletic program for performing, participating in,
21 or allowing an activity required or authorized by this section.

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

24 (1) shall, before entering into the contract, disclose

1 to the institution, in the manner prescribed by the institution,
2 any proposed contract the student athlete may sign for use of the
3 student athlete's name, image, or likeness;

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

6 (A) any provision of the contract conflicts with
7 a provision of the student athlete's team contract, a provision of
8 an institutional contract of the institution, a policy of the
9 athletic department of the institution, or a provision of the honor
10 code of the institution;

11 (B) the compensation for the use of the student
12 athlete's name, image, or likeness is provided:

13 (i) in exchange for athletic performance or
14 registration [~~attendance~~] at the institution;

15 (ii) by the institution;

16 (iii) in exchange for an act that occurs
17 while the athlete is engaged in an official team activity [~~property~~
18 ~~owned by the institution or for providing an endorsement while~~
19 ~~using intellectual property or other property owned by the~~
20 ~~institution~~]; or

21 (iv) in exchange for an endorsement of
22 alcohol, tobacco products, e-cigarettes or any other type of
23 nicotine delivery device, anabolic steroids, sports betting,
24 casino gambling, a firearm the student athlete cannot legally
25 purchase, or a sexually oriented business as defined in Section
26 [243.002](#), Local Government Code; or

27 (C) the duration of the contract extends beyond

1 the student athlete's participation in the intercollegiate
2 athletic program;

3 (3) is not considered an employee of the institution
4 based on the student athlete's participation in the intercollegiate
5 athletic program; ~~and~~

6 (4) may earn compensation from selling the student
7 athlete's autograph in a manner that does not otherwise conflict
8 with a provision of this section; and

9 (5) may not use an institution's facility, uniform,
10 registered trademark, copyright-protected product, or official
11 logo, mark, or other indicia in connection with a contract for the
12 use of the student athlete's name, image, or likeness unless the
13 student athlete obtains the institution's express permission.

14 (g-1) An institution may not authorize a use described by
15 Subsection (g)(5) unless the institution requires that:

16 (1) the student athlete and the person contracting for
17 the use of the student athlete's name, image, or likeness comply
18 with any requirements the institution establishes, including
19 requirements related to licensing; and

20 (2) the institution is compensated for the use in an
21 amount consistent with the market average compensation for the use.

22 (i) An institution to which this section applies shall
23 require a student athlete participating in an intercollegiate
24 athletic program at the institution to attend a financial literacy
25 and life skills course during ~~[workshop at the beginning of]~~ the
26 student's first ~~[and third]~~ academic year ~~[years]~~ at the
27 institution. The course ~~[workshop]~~ must be at least five hours in

1 duration and include information on financial aid, debt management,
2 time management, budgeting, and academic resources available to the
3 student athlete. The institution may not during the course
4 [~~workshop~~] allow any provider of financial products or services to:

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

7 (2) solicit a student athlete to use the provider's
8 services.

9 (1) Information written, produced, collected, assembled, or
10 maintained by an institution to which this section applies that
11 includes or reveals any term of a contract or proposed contract for
12 the use of the student athlete's name, image, or likeness is
13 confidential and excepted from required public disclosure in
14 accordance with Chapter 552, Government Code. An institution to
15 which this section applies may withhold information described by
16 this subsection without requesting a decision from the attorney
17 general under Subchapter G, Chapter 552, Government Code.

18 (m) An institution to which this section applies or any
19 employee of the institution:

20 (1) may identify or otherwise assist with
21 opportunities for a currently enrolled student athlete to earn
22 compensation from a third party for the use of the student athlete's
23 name, image, or likeness; and

24 (2) may not, in assisting a student athlete as
25 described by Subdivision (1):

26 (A) act as an athlete agent for the student
27 athlete;

1 (B) be compensated by the student athlete or
2 third party for providing the assistance;

3 (C) attempt to influence the student athlete's
4 choice of professional representation in connection with an
5 opportunity; or

6 (D) attempt to diminish the student athlete's
7 opportunities from competing third parties.

8 (n) This section may not be construed as creating a cause of
9 action against an institution or an institution's officers or
10 employees relating to a student athlete's name, image, or likeness.

11 SECTION 2. (a) Except as provided by Subsection (b) of this
12 section, the changes in law made by this Act apply only to a
13 contract for the use of a student athlete's name, image, or likeness
14 entered into on or after the effective date of this Act. A contract
15 for the use of a student athlete's name, image, or likeness entered
16 into before the effective date of this Act is governed by the law as
17 it existed immediately before the effective date of this Act, and
18 that law is continued in effect for that purpose.

19 (b) Section 51.9246(1), Education Code, as added by this
20 Act, applies only to a request for information received on or after
21 the effective date of this Act. A request for information received
22 before the effective date of this Act is governed by the law in
23 effect on the date the request was received, and the former law is
24 continued in effect for that purpose.

25 SECTION 3. This Act takes effect July 1, 2023, if it
26 receives a vote of two-thirds of all the members elected to each
27 house, as provided by Section 39, Article III, Texas Constitution.

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1 If this Act does not receive the vote necessary for effect on that
2 date, this Act takes effect September 1, 2023.