87S20663 MM-D

By:  Cook H.B. No. 240

A BILL TO BE ENTITLED

AN ACT

relating to the compensation and professional representation of students participating in University Interscholastic League activities.

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

SECTION 1.  Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.099 to read as follows:

Sec. 33.099.  COMPENSATION AND PROFESSIONAL REPRESENTATION OF STUDENTS PARTICIPATING IN UNIVERSITY INTERSCHOLASTIC LEAGUE ACTIVITIES. (a) In this section:

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

(2)  "League" means the University Interscholastic League.

(3)  "Participation agreement" means an agreement between a student and a school to which this section applies regarding the student's participation in a league activity and includes any rules or expectations of the school's league activity department, head coach, or sponsor that require a student's compliance as a condition of participation in the league activity.

(4)  "School sponsorship contract" means a contract between a school to which this section applies or its designated representative and an external party that includes a sponsorship agreement governing the use of the school's trademarks in connection with a league activity.

(b)  This section applies only to a public or private primary or secondary school that participates in league activities.

(c)  The league or a school to which this section applies may not adopt or enforce a policy, requirement, standard, or limitation that prohibits or otherwise prevents a student participating in a league activity from:

(1)  earning compensation for the use of the student's name, image, or likeness when the student is not engaged in official league activities, as that term is defined by the league; or

(2)  obtaining professional representation, including representation by an attorney licensed to practice law in this state, for contracts or other legal matters relating to the use of the student's name, image, or likeness.

(d)  A scholarship, grant, or similar financial assistance awarded to a student by a private school to which this section applies that covers the student's cost of attendance at the school is not compensation for purposes of this section.

(e)  A student participating in a league activity at a private school to which this section applies may not be disqualified from eligibility for a scholarship, grant, or similar financial assistance awarded by the school because the student:

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

(2)  obtains professional representation, including representation by an attorney licensed to practice law in this state, for contracts or other legal matters relating to use of the student's name, image, or likeness.

(f)  A school to which this section applies may not:

(1)  prescribe a participation agreement for a league activity that prohibits or otherwise prevents a student from using the student's name, image, or likeness for a commercial purpose when the student is not engaged in official league activities; or

(2)  provide or solicit a prospective student of a league activity at the school with compensation in relation to the prospective student's name, image, or likeness.

(g)  A student who is 18 years of age or older, or the parent of or person standing in parental relation to a student who is not 18 years of age or older, and who participates in a league activity at a school to which this section applies:

(1)  shall, before entering into the contract, disclose to the school, in the manner prescribed by the school, any proposed contract for use of the student's name, image, or likeness; and

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

(A)  any provision of the contract conflicts with a provision of the student's participation agreement, a provision of a school sponsorship contract of the school, a policy of the league activity department at the school, or a provision of the student code of conduct of the school;

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

(i)  in exchange for league activity performance or attendance at the school;

(ii)  by the school;

(iii)  in exchange for property owned by the school or for providing an endorsement while using intellectual property or other property owned by the school; or

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

(C)  the duration of the contract extends beyond the student's participation in the league activity.

(h)  A student participating in a league activity at a school to which this section applies:

(1)  is not considered an employee of the school based on the student's participation in the league activity; and

(2)  may earn compensation from selling the student's autograph in a manner that does not otherwise conflict with a provision of this section.

(i)  A school to which this section applies that identifies a provision in a contract disclosed to the school by a student under Subsection (g)(1) that conflicts with a provision in the student's participation agreement, a provision of a school sponsorship contract of the school, a policy of the league activity department of the school, or a provision of the student code of conduct of the school shall promptly disclose the conflict to the student or the student's parent or person standing in parental relation to the student, as applicable. The student or the student's parent or person standing in parental relation to the student, as applicable, is responsible for resolving the conflict not later than the 10th day after the date of the disclosure.

(j)  A student participating in a league activity at a school to which this section applies may not access any money earned as compensation for the use of the student's name, image, or likeness until the date on which the student:

(1)  becomes 18 years of age or graduates from high school, whichever occurs later; or

(2)  is emancipated through marriage, through removal of the disabilities of minority by court order, or by other operation of law.

(k)  A student's parent or person standing in parental relation to a student owes a fiduciary duty to the student to manage any compensation the student receives for the use of the student's name, image, or likeness.

(l)  An individual, corporate entity, or other organization may not:

(1)  enter into any arrangement with a prospective student or the student's parent or person standing in parental relation to the student, as applicable, relating to the prospective student's name, image, or likeness prior to their enrollment at a school to which this section applies; or

(2)  use inducements of future name, image, and likeness compensation arrangement to recruit a prospective student to any school to which this section applies.

(m)  This section may not be construed as permitting an athlete agent to take any action prohibited under Section 2051.351, Occupations Code.

SECTION 2.  Section 51.9246(j), Education Code, as added by S.B. 1385, Acts of the 87th Legislature, Regular Session, 2021, is amended to read as follows:

(j)  No individual, corporate entity, or other organization may:

(1)  prior to a prospective student athlete's enrollment in an institution of higher education, enter into any arrangement with the [~~a~~] prospective student athlete relating to the prospective student athlete's name, image, or likeness while enrolled at [~~prior to their enrollment in~~] an institution of higher education; or

(2)  use inducements of future name, image, and likeness compensation arrangement to recruit a prospective student athlete to any institution of higher education.

SECTION 3.  Section 33.099(g), Education Code, as added by this Act, applies only to a contract entered into, modified, or renewed on or after the effective date of this Act.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.