

By: Cook

H.B. No. 240

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the compensation and professional representation of
3 students participating in University Interscholastic League
4 activities.

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

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

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

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

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

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

21 (4) "School sponsorship contract" means a contract
22 between a school to which this section applies or its designated
23 representative and an external party that includes a sponsorship
24 agreement governing the use of the school's trademarks in

1 connection with a league activity.

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

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

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

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

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

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

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

26 (2) obtains professional representation, including
27 representation by an attorney licensed to practice law in this

1 state, for contracts or other legal matters relating to use of the
2 student's name, image, or likeness.

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

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

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

11 (g) A student who is 18 years of age or older, or the parent
12 of or person standing in parental relation to a student who is not
13 18 years of age or older, and who participates in a league activity
14 at a school to which this section applies:

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

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

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

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

27 (i) in exchange for league activity

1 performance or attendance at the school;
2 (ii) by the school;
3 (iii) in exchange for property owned by the
4 school or for providing an endorsement while using intellectual
5 property or other property owned by the school; or
6 (iv) in exchange for an endorsement of
7 alcohol, tobacco products, e-cigarettes or any other type of
8 nicotine delivery device, anabolic steroids, sports betting,
9 casino gambling, a firearm the student cannot legally purchase, or
10 a sexually oriented business as defined in Section 243.002, Local
11 Government Code; or
12 (C) the duration of the contract extends beyond
13 the student's participation in the league activity.
14 (h) A student participating in a league activity at a school
15 to which this section applies:
16 (1) is not considered an employee of the school based
17 on the student's participation in the league activity; and
18 (2) may earn compensation from selling the student's
19 autograph in a manner that does not otherwise conflict with a
20 provision of this section.
21 (i) A school to which this section applies that identifies a
22 provision in a contract disclosed to the school by a student under
23 Subsection (g)(1) that conflicts with a provision in the student's
24 participation agreement, a provision of a school sponsorship
25 contract of the school, a policy of the league activity department
26 of the school, or a provision of the student code of conduct of the
27 school shall promptly disclose the conflict to the student or the

1 student's parent or person standing in parental relation to the
2 student, as applicable. The student or the student's parent or
3 person standing in parental relation to the student, as applicable,
4 is responsible for resolving the conflict not later than the 10th
5 day after the date of the disclosure.

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

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

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

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

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

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

26 (2) use inducements of future name, image, and
27 likeness compensation arrangement to recruit a prospective student

1 to any school to which this section applies.

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

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

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

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

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

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

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