87R5016 ADM-D

By:  Leach H.B. No. 1891

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.  The legislature finds and declares the following:

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

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

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

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

SECTION 2.  Subchapter Z, 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D)  in exchange for an endorsement of alcohol, tobacco products, gambling, firearms, or a sexually oriented business as defined in Section 243.002, Local Government Code; or

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

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

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

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

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

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

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

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

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

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

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

SECTION 4.  Section 51.9246(f), 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 5.  This Act takes effect January 1, 2024.