

By: Kuempel

H.B. No. 2804

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(A) any provision of the contract conflicts with a provision of the student athlete's team contract, a provision of an institutional contract of the institution, a policy of the athletic department of the institution, or a provision of the honor

1 code of the institution;

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

4 (i) in exchange for athletic performance or
5 attendance at the institution;

6 (ii) by the institution;

7 (iii) in exchange for an act that occurs
8 while the athlete is engaged in an official team activity [~~property~~
9 ~~owned by the institution or for providing an endorsement while~~
10 ~~using intellectual property or other property owned by the~~
11 ~~institution~~]; or

12 (iv) in exchange for an endorsement of
13 alcohol, tobacco products, e-cigarettes or any other type of
14 nicotine delivery device, anabolic steroids, sports betting,
15 casino gambling, a firearm the student athlete cannot legally
16 purchase, or a sexually oriented business as defined in Section
17 [243.002](#), Local Government Code; or

18 (C) the duration of the contract extends beyond
19 the student athlete's participation in the intercollegiate
20 athletic program;

21 (3) is not considered an employee of the institution
22 based on the student athlete's participation in the intercollegiate
23 athletic program; [~~and~~]

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

27 (5) may not use an institution's facility, uniform,

1 registered trademark, copyright-protected product, or official
2 logo, mark, or other indicia in connection with a contract for the
3 use of the student athlete's name, image, or likeness unless the
4 student athlete obtains the institution's express permission.

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

7 (1) the student athlete and the person with which the
8 student athlete has contracted for the use of the student athlete's
9 name, image, or likeness comply with any requirements the
10 institution establishes, including requirements related to
11 licensing; and

12 (2) the institution is compensated for the use in a
13 manner consistent with market rates.

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

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

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

1 services.

2 (1) Information written, produced, collected, assembled, or
3 maintained by an institution to which this section applies, that
4 reveals the terms of a student athlete's contract or proposed
5 contract for the use of the student athlete's name, image, or
6 likeness, is confidential and excepted from required public
7 disclosure in accordance with Chapter 552, Government Code. An
8 institution to which this section applies may withhold information
9 described by this subsection without requesting a decision from the
10 attorney general under Subchapter G, Chapter 552, Government Code.

11 (m) An institution to which this section applies, or any
12 employee of the institution, may identify or otherwise assist with
13 opportunities for a currently-enrolled student athlete to earn
14 compensation from a third party for the use of the student
15 athlete's name, image, or likeness provided that an institution's
16 employee shall not:

17 (1) serve as an athlete agent for the student athlete;
18 (2) receive compensation from the student athlete or
19 third party for facilitating or enabling such opportunities;

20 (3) attempt to influence a student athlete's choice of
21 professional representation related to such opportunities; or

22 (4) attempt to reduce a student athlete's
23 opportunities from competing third parties.

24 (n) This section may not be construed as creating a cause of
25 action against an institution or an institution's officers or
26 employees relating to the use of a student athlete's name, image, or
27 likeness.

1 SECTION 2. Except as provided by Section 3, the changes in
2 law made by this Act apply only to a contract for the use of a
3 student athlete's name, image, or likeness entered into on or after
4 the effective date of this Act. A contract for the use of a student
5 athlete's name, image, or likeness entered into before the
6 effective date of this Act is governed by the law as it existed
7 immediately before the effective date of this Act, and that law is
8 continued in effect for that purpose.

9 SECTION 3. The change in law made by Section [51.9246\(1\)](#),
10 Education Code, as added by this Act, applies to a request for
11 information that is received by an institution to which Section
12 [51.9246](#) applies on or after the effective date of this Act. A
13 request for information that was received before the effective date
14 of this Act is governed by the law in effect on the date the request
15 was received, and the former law is continued in effect for that
16 purpose.

17 SECTION 4. This Act takes effect July 1, 2023, if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section [39](#), Article III, Texas Constitution.
20 If this Act does not receive the vote necessary to take effect July
21 1, 2023, this Act takes effect September 1, 2023.