

SENATE BILL No. 474

By Committee on Ways and Means

2-26

1 AN ACT concerning postsecondary educational institution student
2 athletes; relating to compensation for the use of a student athlete's
3 name, image, likeness rights or athletic reputation.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. As used in this act:

7 (a) "Act" means sections 1 through 6, and amendments thereto.

8 (b) "Athletic association" means an athletic association, conference or
9 other group or organization with authority over, or that is recognized as a
10 regulatory or promotional authority by, postsecondary educational
11 institutions participating in intercollegiate athletics, including, but not
12 limited to, the national collegiate athletic association.

13 (c) "Athlete agent" means an athlete agent as defined in the uniform
14 athlete agents act who has obtained and maintains a current certificate of
15 registration as set forth in the uniform athlete agents act and who complies
16 with the federal sports agent responsibility and trust act, 15 U.S.C. § 7801
17 et seq., established in chapter 104 of title 15 of the United States code.

18 (d) "Intercollegiate athletics" means sports played at the collegiate
19 level for which eligibility requirements for participation by a student
20 athlete are established by an athletic association that promotes or regulates
21 collegiate athletics.

22 (e) "Postsecondary educational institution" means a public or private
23 institution in this state that offers a degree or course of study beyond grade
24 12 and its controlled athletics entities. "Postsecondary educational
25 institution" includes a technical college, municipal university, community
26 college, college, university, state educational institution and not-for-profit
27 corporation controlled by an educational institution for the sole purpose of
28 operating its athletic program. ***"Postsecondary educational institution"***
29 ***shall not include any accredited not-for-profit postsecondary***
30 ***educational institution with a physical presence in this state that is***
31 ***exempted from the Kansas private and out-of-state postsecondary***
32 ***educational institution act if such institution elects to be exempted from***
33 ***the provisions of this act.***

34 (f) "Student athlete" or "athlete" means a participant in varsity
35 intercollegiate athletics who is a student at a postsecondary educational
36 institution registered for courses full-time on the first day of class of a

1 semester, session or term or who practices or competes in intercollegiate
2 athletics.

3 Sec. 2. (a) A postsecondary educational institution shall not create or
4 enforce any rule, requirement, standard or other limitation that prevents a
5 student athlete of that institution from earning compensation as a result of
6 the use of the student athlete's name, image, likeness rights or athletic
7 reputation. The earning of compensation by a student athlete from the use
8 of a student athlete's name, image, likeness rights or athletic reputation
9 shall not affect a student athlete's scholarship eligibility or scholarship
10 renewal eligibility, unless otherwise required by federal laws or
11 institutional standards governing need-based awards due to income
12 received.

13 (b) An athletic association shall not:

14 (1) Prevent, restrict, impose any condition or penalty upon or
15 otherwise limit a student athlete of a postsecondary educational institution
16 from fully participating in intercollegiate athletics and earning
17 compensation as a result of the student athlete's use of the student athlete's
18 name, image, likeness rights or athletic reputation; or

19 (2) prevent, restrict, impose any condition or penalty upon or
20 otherwise limit a postsecondary educational institution, its employees or
21 volunteers from fully participating in intercollegiate athletics as a result of
22 a student athlete's use of the student athlete's name, image, likeness rights
23 or athletic reputation to earn compensation.

24 (c) A postsecondary educational institution or athletic association
25 shall not provide a prospective student athlete who will attend a
26 postsecondary educational institution or a current student athlete with
27 compensation in relation to the athlete's name, image, likeness rights or
28 athletic reputation.

29 (d) For the purposes of this act, an athletics grant-in-aid or a stipend
30 scholarship from a postsecondary educational institution in which a
31 student athlete is enrolled shall not be considered compensation for use of
32 a student athlete's name, image, likeness rights or athletic reputation, and
33 no postsecondary educational institution shall revoke or reduce an athletics
34 grant-in-aid or stipend scholarship as a result of a student athlete earning
35 compensation in accordance with this act, unless otherwise required by
36 federal laws or institutional standards governing need-based awards due to
37 income received.

38 Sec. 3. (a) A postsecondary educational institution or athletic
39 association shall not:

40 (1) Interfere with or prevent a student athlete who is enrolled at a
41 postsecondary educational institution within the state of Kansas and who
42 participates in intercollegiate athletics from obtaining professional
43 representation in relation to contracts or legal matters, including, but not

1 limited to, representation provided by an athlete agent or legal
2 representation provided by an attorney; or

3 (2) interfere with or prevent a student athlete from fully participating
4 in intercollegiate athletics as a result of the student athlete obtaining
5 professional representation in relation to contracts or legal matters,
6 including, but not limited to, representation provided by an athlete agent or
7 legal representation provided by an attorney.

8 (b) An athletic association shall not prevent, restrict, impose any
9 condition or penalty upon or otherwise limit a postsecondary educational
10 institution from fully participating in intercollegiate athletics as a result of
11 a student athlete obtaining professional representation in relation to
12 contracts or legal matters, including, but not limited to, representation
13 provided by an athlete agent or legal representation provided by an
14 attorney.

15 (c) Professional representation on behalf of a student athlete by an
16 athlete agent or attorney shall only be provided by persons licensed by this
17 state or holding certificates of registration as provided by applicable
18 Kansas law, including the uniform athlete agents act, and who are in
19 compliance with such Kansas law and the federal sports agent
20 responsibility and trust act, 15 U.S.C. § 7801 et seq., established in chapter
21 104 of title 15 of the United States code.

22 Sec. 4. (a) A student athlete shall be deemed to have granted the
23 student's postsecondary educational institution the right, royalty-free and
24 without compensation in return therefor, to use the student athlete's name,
25 image, likeness rights or athletic reputation and any alterations thereto, to
26 the extent and in the form determined in the institution's sole discretion, at
27 any time for its advertising and marketing related to the postsecondary
28 educational institution's athletic, academic, promotional and historical
29 interests. Any contractual provision in a contract between a student athlete
30 and a third-party sponsor or athlete agent in conflict with this provision is
31 null and void.

32 (b) A student athlete shall not enter into a contract providing
33 compensation to the student athlete for use of the student athlete's name,
34 image, likeness rights or athletic reputation if a provision of that contract is
35 in conflict with a provision of a contract entered into by the postsecondary
36 educational institution's department or an affiliated entity, including, but
37 not limited to, a contract that requires the student athlete to display a
38 sponsor's apparel, or otherwise advertise for a sponsor, during official team
39 activities if such provision is in conflict with a provision of a contract
40 binding the postsecondary educational institution.

41 (c) A postsecondary educational institution asserting a conflict
42 described in subsection (b) shall disclose to the student athlete and the
43 student athlete's professional representative, if applicable, the full contract

1 that the postsecondary educational institution asserts is in conflict and
2 shall designate the relevant contractual provisions asserted to be in
3 conflict.

4 (d) A postsecondary educational institution or its athletic program
5 shall not enter into a contract that prevents a student athlete from receiving
6 compensation for using the student athlete's name, image, likeness rights
7 or athletic reputation for a commercial purpose when the student athlete is
8 not engaged in official team activities.

9 (e) A student athlete who enters into a contract providing
10 compensation to the student athlete for the use of the student athlete's
11 name, image, likeness rights or athletic reputation shall disclose the
12 contract to an official of the postsecondary educational institution to be
13 designated by the postsecondary educational institution. Notice of the
14 official to receive disclosure of the contract shall be provided to all student
15 athletes by the postsecondary educational institution upon request or prior
16 to the first day of class of a semester, session or term. A student athlete
17 shall provide disclosure of a contract within five business days of the date
18 of signature of the contract by the student athlete.

19 (f) This act shall not authorize prospective student athletes who may
20 attend a postsecondary educational institution to negotiate, discuss or
21 receive compensation for the use of the prospective student athlete's name,
22 image, likeness rights or athletic reputation prior to the student athlete's
23 enrollment in a postsecondary educational institution or practice or
24 competition in intercollegiate athletics.

25 Sec. 5. (a) This act shall not apply to a contract executed, modified or
26 renewed by a student athlete before the effective date of this act.

27 (b) A legal settlement arising under this act shall not permit
28 noncompliance with this act.

29 Sec. 6. (a) The attorney general shall certify to the secretary of state
30 when a total of 15 other states have enacted legislation similar to this act,
31 permitting student athletes to receive compensation from the use of their
32 name, image, likeness rights or athletic reputation. Upon receipt of such
33 certification, the secretary of state shall cause a notice of such certification
34 to be published in the Kansas register.

35 (b) The provisions of sections 1 through 5, and amendments thereto,
36 shall take effect from and after July 1 following the publication of the
37 notice by the secretary of state in the Kansas register as provided by
38 subsection (a).

39 Sec. 7. This act shall take effect and be in force from and after its
40 publication in the statute book.