SENATE BILL No. 474

By Committee on Ways and Means

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

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

Section 1. As used in this act:

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

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

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

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

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

(f) "Student athlete" or "athlete" means a participant in varsity intercollegiate athletics who is a student at a postsecondary educational institution registered for courses full-time on the first day of class of a
semester, session or term or who practices or competes in intercollegiate
athletics.

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

(b) An athletic association shall not:

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

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

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

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

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

(1) Interfere with or prevent a student athlete who is enrolled at a
postsecondary educational institution within the state of Kansas and who
participates in intercollegiate athletics from obtaining professional
representation in relation to contracts or legal matters, including, but not
limited to, representation provided by an athlete agent or legal
representation provided by an attorney; or
(2) interfere with or prevent a student athlete from fully participating
in intercollegiate athletics as a result of the student athlete obtaining
professional representation in relation to contracts or legal matters,
including, but not limited to, representation provided by an athlete agent or
legal representation provided by an attorney.
(b) An athletic association shall not prevent, restrict, impose any
condition or penalty upon or otherwise limit a postsecondary educational
institution from fully participating in intercollegiate athletics as a result of
a student athlete obtaining professional representation in relation to
contracts or legal matters, including, but not limited to, representation
provided by an athlete agent or legal representation provided by an
attorney.
(c) Professional representation on behalf of a student athlete by an
athlete agent or attorney shall only be provided by persons licensed by this
state or holding certificates of registration as provided by applicable
Kansas law, including the uniform athlete agents act, and who are in
compliance with such Kansas law and the federal sports agent
responsibility and trust act, 15 U.S.C. § 7801 et seq., established in chapter
104 of title 15 of the United States code.
Sec. 4. (a) A student athlete shall be deemed to have granted the
student's postsecondary educational institution the right, royalty-free and
without compensation in return therefor, to use the student athlete's name,
image, likeness rights or athletic reputation and any alterations thereto, to
the extent and in the form determined in the institution's sole discretion, at
any time for its advertising and marketing related to the postsecondary
educational institution's athletic, academic, promotional and historical
interests. Any contractual provision in a contract between a student athlete
and a third-party sponsor or athlete agent in conflict with this provision is
null and void.
(b) A student athlete shall not enter into a contract providing
compensation to the student athlete for use of the student athlete's name,
image, likeness rights or athletic reputation if a provision of that contract is
in conflict with a provision of a contract entered into by the postsecondary
educational institution's department or an affiliated entity, including, but
not limited to, a contract that requires the student athlete to display a
sponsor's apparel, or otherwise advertise for a sponsor, during official team
activities if such provision is in conflict with a provision of a contract
binding the postsecondary educational institution.
(c) A postsecondary educational institution asserting a conflict
described in subsection (b) shall disclose to the student athlete and the
student athlete's professional representative, if applicable, the full contract
that the postsecondary educational institution asserts is in conflict and shall designate the relevant contractual provisions asserted to be in conflict.

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

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

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

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

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

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

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

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