SB230

209511-1

By Senators Allen, Waggoner, Marsh, Whatley and Smitherman

RFD: Judiciary

First Read: 11-FEB-21
SYNOPSIS:  This bill would provide that a student athlete may earn compensation for the use of the student athlete's name, image, or likeness.

This bill would also provide that a postsecondary educational institution may not prevent or unduly restrict the receipt of compensation by a student athlete for use of their name, image, or likeness.

This bill would establish the Alabama Collegiate Athletics Commission to provide rules and recommendations on matters related to name, image, and likeness issues, and to require each postsecondary educational institution to conduct a financial literacy and life skills workshop for student athletes.

A BILL TO BE ENTITLED
AN ACT
Relating to student athletes; to provide that a student athlete may earn compensation for the use of the student athlete's name, image, or likeness; to provide that a postsecondary educational institution may not prevent or unduly restrict the receipt of compensation by a student athlete for use of their name, image, or likeness; to require each postsecondary educational institution to conduct a financial literacy and life skills workshop for student athletes; and to establish a commission to provide rules and recommendations on matters related to name, image, and likeness issues.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For purposes of this act, the following terms shall have the following meanings:

(1) COMPENSATION. Anything of value, monetary or otherwise, granted to a party by a second party in exchange for performance of a contract. For purposes of this act, compensation does not include a scholarship awarded to a student athlete by a postsecondary educational institution or a stipend given to a student athlete by a postsecondary educational institution which is calculated based on the cost of living and cost of attendance at the institution.

(2) INTERCOLLEGIATE SPORT. An athletic program at a postsecondary educational institution.

(3) NAME, IMAGE, OR LIKENESS. Any or all of those elements that, together, are known as the right of publicity.
(4) POSTSECONDARY EDUCATIONAL INSTITUTION. A public university or college in this state, an Alabama Community College System institution, or an institution for higher education as defined in Section 16-18A-2, Code of Alabama 1975.

(5) STUDENT ATHLETE. As defined in Section 8-26B-2, Code of Alabama 1975.

Section 2. (a) A student athlete participating in intercollegiate sports at a postsecondary educational institution may earn compensation for the use of the student athlete's name, image, or likeness pursuant to this act. The compensation shall be commensurate with the market value of the student athlete's name, image, or likeness.

(b) Subject to this act and any rule adopted by the Alabama Collegiate Athletics Commission pursuant to Section 6, a postsecondary educational institution may not adopt or maintain a contract, rule, regulation, standard, or other requirement that unreasonably restricts a student athlete from receiving compensation for the student athlete's name, image, or likeness.

(1) A postsecondary educational institution may prohibit a student athlete from entering into an endorsement contract with, or otherwise receiving compensation from, any of the following categories of brands or companies:

a. A tobacco company or brand, including any tobacco product, alternative nicotine product, electronic nicotine delivery system, or any electronic nicotine delivery
1 system retailer, or any specialty retailer of electronic
2 nicotine delivery systems or tobacco specialty store, as
4 b. Any alcoholic beverage company or brand.
5 c. Any seller or dispensary of a controlled
6 substance, including, but not limited to, marijuana.
7 d. Any adult entertainment business.
8 e. Any casino or entities that sponsor or promote
9 gambling activities.
10 (2) A postsecondary educational institution may also
11 prohibit a student athlete from wearing any item of clothing
12 or gear with the insignia of any entity while wearing athletic
13 gear or uniforms licensed by a postsecondary educational
14 institution or otherwise competing in any athletic competition
15 or institutionally-sponsored event.
16 (c) Compensation for a student athlete's name,
17 image, or likeness may not be conditioned on athletic
18 performance or attendance at a particular postsecondary
19 educational institution.
20 (d) Compensation for the use of a student athlete's
21 name, image, or likeness may be provided only by a third party
22 not owned or operating under the authority of the student
23 athlete's postsecondary educational institution.
24 (e) A postsecondary educational institution, an
25 entity with the purpose of supporting or benefitting the
26 institution or its intercollegiate sports, or any officer,
27 director, or employee of the institution or entity may not
compensate or cause compensation to be directed to a student athlete or the family of a student athlete for use of their name, image, or likeness.

(f) Except with the written consent of the postsecondary education institution, a student athlete may not enter into a contract for compensation for the use of the student athlete’s name, image, or likeness if the institution determines that a term of the contract conflicts with a term of a contract held by the student athlete’s postsecondary education institution.

(g) Before any contract for compensation for the use of a student athlete’s name, image, or likeness is executed, the student athlete shall disclose that contract to his or her postsecondary educational institution in a manner prescribed by the institution.

(h) A contract for the use of a student athlete’s name, image, or likeness which is formed while the student athlete is participating in an intercollegiate sport at a postsecondary educational institution may not extend beyond the student athlete’s participation in the sport at the institution.

Section 3. (a) A postsecondary educational institution may not prevent or unduly restrict a student athlete from obtaining professional representation for the purpose of securing compensation for the use of the student athlete's name, image, or likeness.
(b) An individual representing a student athlete for purposes of exploring or securing compensation for the student athlete's name, image, or likeness shall be registered as an athlete agent with the state pursuant to Section 8-26B-4, Code of Alabama 1975, or shall be a licensed attorney and a member in good standing of the Alabama State Bar.

Section 4. A scholarship awarded to a student athlete by a postsecondary educational institution may not be revoked or reduced as a result of the receipt of compensation by a student athlete for use of their name, image, or likeness, or as a result of the student athlete obtaining professional representation.

Section 5. (a) Each postsecondary educational institution shall conduct a financial literacy and life skills workshop for a minimum of five hours at the beginning of the student athlete's first and third academic years. At a minimum, the workshop must include information concerning financial aid and debt management, as well as recommended model budgets for student athletes based on that academic year's estimated cost of attendance and the various scholarship statuses of student athletes at the institution. The workshop shall also include information on time management skills necessary for success as a student athlete and available academic resources.

(b) The workshop may not include any marketing, advertising, referral, or solicitation by providers of financial products or services.
Section 6. (a) There is established the Alabama Collegiate Athletics Commission. The purpose of the commission shall be to develop rules and recommendations to maintain the fairness and integrity of amateur intercollegiate athletics and the principle of amateurism in intercollegiate athletics, consistent with this act. The commission may do all of the following:

(1) Make rules or recommendations related to the implementation of name, image, and likeness standards and requirements that are consistent with this act.

(2) Make rules or recommendations about a process to manage registered athlete agents in the context of name, image, and likeness.

(3) Make rules or recommendations for the establishment of an independent dispute resolution process for any dispute arising between a student athlete and a postsecondary education institution related to name, image, or likeness usage.

(b) The commission shall consist of six members, including the Governor, who shall serve as chair; the Lieutenant Governor; the President Pro Tempore of the Senate; the Speaker of the House of Representatives; and the Minority Leaders of the House of Representatives and the Senate.

(c) The commission may consult with individuals or groups with information or knowledge about issues related to name, image, and likeness, including, but not limited to, current or former student athletes, coaches, conference or
school administrators, professionals with expertise in sports
marketing, contracting and public relations, and athletic
agents.

(d)(1) Meetings of the commission shall be held at
the call of the chair.

(2) A meeting may only be held where there is a
quorum of at least three members.

(3) Meetings of the commission may take place via
electronic means.

(4) Within 15 calendar days of any called meeting,
the commission must publicly post a report of any formal rules
or recommendations that were developed during the meeting.

(d) A violation of a rule of the commission shall be
punishable by a civil penalty of up to one thousand dollars
($1,000).

Section 7. A student athlete may not receive or
enter into a contract for compensation for use of his or her
name, image, or likeness in a way that also uses any
registered or licensed marks, logos, verbiage, or designs of a
postsecondary education institution, unless the institution
has provided the student athlete with written permission to do
so prior to the execution of the contract. If permission is
granted, the postsecondary education institution, by agreement
of all parties, may be compensated for the use in a manner
consistent with market rates or prior practice.

Section 8. A student athlete may not receive
compensation for use of their name, image, or likeness as an
inducement to attend or enroll in or continue attending a
specific postsecondary educational institution.

Section 9. This act does not create a cause of action for any actions taken by a postsecondary education institution prior to the effective date of this act, including, but not limited to, any action under a claim or theory relating to restriction on trade or tortious interference of fair competition.

Section 10. Nothing in this act or rule of the commission shall affect the employment status of a student athlete with a postsecondary education institution. A student athlete shall not be considered an employee of a postsecondary education institution based on participation in an intercollegiate sport.

Section 11. It is the intent of the Legislature that constitutionally created boards of trustees of postsecondary educational institutions comply with the requirement of this act.

Section 12. (a) An individual other than a student athlete who violates subsections (c), (d), or (e) of Section 2 or who grants compensation to a student athlete in a manner that causes the student athlete to violate Section 8 shall be guilty of a Class C felony.

(b) A student athlete who receives compensation as a result of a violation of subsections (c), (d), or (e) of Section 2 or Section 8 shall be guilty of a Class A misdemeanor.
Section 13. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.