To protect the rights of student athletes and to provide for transparency and accountability with respect to student athlete name, image, and likeness agreements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on ________

A BILL

To protect the rights of student athletes and to provide for transparency and accountability with respect to student athlete name, image, and likeness agreements, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Collegiate Athlete Compensation Rights Act”.

SEC. 2. DEFINITIONS.

In this Act:
(1) Athletic Association.—The term “athletic association” means any organization or other group that—

(A) has 2 or more conferences as members; and

(B) arranges, sets rules for, or regulates varsity intercollegiate sports competition.

(2) Athletic Department.—The term “athletic department” means a department at an institution responsible for sponsoring 1 or more varsity intercollegiate athletic programs.

(3) Appropriate Committees of Congress.—The term “appropriate committees of Congress” means—

(A) the Committee on Commerce, Science, and Transportation and the Committee on Health, Education, Labor, and Pensions of the Senate; and

(B) the Committee on Energy and Commerce and the Committee on Education and Labor of the House of Representatives.

(4) Booster.—With respect to an institution, the term “booster” means—
(A) an individual or entity that, directly or indirectly, through any other individual or entity or in any other manner—

(i) has provided a donation to obtain season tickets for any varsity intercollegiate athletic program at the institution that exceeds the annual amount determined by the Commission;

(ii) has made a financial contribution directly to the athletic department or other athletics management organization of the institution in an amount that exceeds the annual amount determined by the Commission;

(iii) is party to any agreement for use of the trademarks of the institution in connection with any varsity intercollegiate athletic program under which the total payments exceed such amount;

(iv) has made any combination of such financial donations, contributions, expenditures, or payments in connection with an activity described in any of clauses (i) through (iii), that, in the aggregate, exceed such amount;
(v) has arranged or provided employment for 1 or more student athletes; or

(vi) has assisted, or been requested by an employee of the institution to assist, in the recruitment of a prospective student athlete; and

(B) includes any entity, group or collective, including any tax-exempt or nonprofit entity, that is controlled by, or receives or has received 25 percent or more of its funding or assets from, 1 or more individuals or entities described in subparagraph (A) of the institution.

(5) CERTIFIED AGENT.—The term “certified agent” means an athlete agent (as defined in section 2 of the Sports Agent Responsibility and Trust Act (15 U.S.C. 7801)), a contract advisor, a financial advisor, a marketing representative, a brand manager, or a similarly employed individual who is certified by the Commission as being in full compliance with all requirements established by the Commission—

(A) to represent a student athlete in a name, image, and likeness agreement;
(B) to provide consulting services to a student athlete with respect to a name, image, and likeness agreement; or

(C) to recruit or solicit, directly or indirectly, a student athlete—

(i) to engage in an activity described in subparagraph (A) or (B); or

(ii) to represent or attempt to represent a student athlete for the purpose of marketing the name, image, or likeness of the student athlete.

(6) Chair.—The term “Chair” means the Chair of the Federal Trade Commission.


(8) Conference.—The term “conference” means any organization that—

(A) is not an athletic association;

(B) has 2 or more institutions as members;

and

(C) arranges championships, sets rules for, or regulates varsity intercollegiate sports competition.

(9) Cost of Attendance.—The term “cost of attendance”—
(A) has the meaning given the term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll); and

(B) shall be calculated by the financial aid office of an institution by applying the same standards, policies, and procedures for all students at such institution.

(10) COVERED COMPENSATION.—

(A) IN GENERAL.—With respect to a name, image, and likeness agreement, the term “covered compensation” means any payment, remuneration, or benefit, including cash, awards, gifts, and in-kind contributions, that—

(i) is provided by a third party to a student athlete;

(ii) is commensurate with the market value for the activity carried out under the name, image, and likeness agreement; and

(iii) is not, or is not intended to be, a recruiting inducement or compensation for participation in a varsity intercollegiate sport.

(B) EXCLUSION.—The term “covered compensation” does not include grant-in-aid.
(11) GRANT-IN-AID.—The term “grant-in-aid” means—

(A) tuition, room, board, books, fees, and personal expenses paid or provided by an institution up to the full cost of attendance;

(B) Federal Pell Grants and other State and Federal grants unrelated to, and not awarded with respect to, participation in varsity intercollegiate sports competition;

(C) health insurance and the costs of health care wholly or partly self-funded by an athletic association, a conference, or an institution;

(D) disability and loss of value insurance that is wholly or partly self-funded by an athletic association, a conference, or an institution;

(E) career counseling or job placement services available to all students at an institution; or

(F) payment of hourly wages and benefits for work actually performed (and not for participation in a varsity intercollegiate athletic program) at a rate commensurate with the prevailing rate in the locality of an institution for similar work.
(12) **IMAGE.**—The term “image”, with respect to a student athlete, means a photograph, video, or computer-generated representation that identifies, is linked to, or is reasonably linkable to the student athlete.

(13) **INSTITUTION.**—The term “institution” means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

(14) **LIKENESS.**—The term “likeness”, with respect to a student athlete, means—

(A) with respect to a student athlete of a sport for which the student athlete has a jersey number, the jersey number associated with the student athlete and the sport in which the student athlete participates at a particular institution during the period of the participation of the student athlete in the sport at the institution, if the jersey number is accompanied by—

(i) a logo or color scheme that is clearly associated with the institution; or

(ii) some other means by which the jersey number is associated with the particular student athlete; and

(B) with respect to any student athlete—
(i) the uniquely identifiable voice, catch phrase, or nickname of the student athlete; or

(ii) any other mark that identifies or distinguishes the student athlete.

(15) **LOSS OF VALUE INSURANCE.**—The term “loss of value insurance” means insurance that protects the future contract value of a student athlete from decreasing below a predetermined amount due to significant injury or illness suffered by the student athlete during the designated coverage period of the insurance policy.

(16) **NAME.**—The term “name”, with respect to a student athlete, means the first or last name, the nickname, or the username on any internet platform of the student athlete when used in a context that reasonably identifies the student athlete with specificity or particularity.

(17) **NAME, IMAGE, AND LIKENESS AGREEMENT.**—The term “name, image, and likeness agreement” means a contract or similar arrangement between a student athlete and a third party regarding the commercial use of the name, image, or likeness of the student athlete in exchange for covered compensation.
(18) PROSPECTIVE STUDENT ATHLETE.—The term “prospective student athlete” means an individual attending an elementary school or a secondary school (as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) who participates in a sport program.

(19) PUBLICITY RIGHT.—The term “publicity right”—

(A) means a right that is recognized under a Federal or State law that permits an individual to control and profit from the commercial use of the name, image, or likeness of the individual; and

(B) includes any right that is licensed under a name, image, and likeness agreement.

(20) STUDENT ATHLETE.—The term “student athlete” means any individual enrolled at an institution who participates as a team member or competitor in varsity intercollegiate sports competition sponsored by the institution.

(21) THIRD PARTY.—The term “third party” means an individual or entity that is not—

(A) an institution;

(B) an athletic department;
(C) an organization or a foundation that provides financial support to an institution or athletic department;

(D) a conference;

(E) an athletic association;

(F) a certified agent; or

(G) an employee of any such individual or entity.

(22) VARSITY INTERCOLLEGIATE ATHLETIC PROGRAM.—The term “varsity intercollegiate athletic program” means a sport played at the intercollegiate level, administered by an athletic department, for which eligibility requirements for participation by student athletes are established by an athletic association.

(23) VARSITY INTERCOLLEGIATE SPORTS COMPETITION.—The term “varsity intercollegiate sports competition” means a competition involving 2 or more varsity intercollegiate athletic programs sponsored by different institutions.

SEC. 3. STUDENT ATHLETE NAME, IMAGE, AND LIKENESS RIGHTS AND PROTECTIONS.

(a) IN GENERAL.—Except as provided in section 4, an athletic association, a conference, or an institution, or
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any representative of such an entity, shall permit a stu-

dent athlete or a group of student athletes—

(1) to market, or to earn covered compensation

for the value of, their name, image, or likeness; and

(2) to obtain or retain a certified agent for any

matter or activity relating to such covered com-
pensation.

(b) Consent and Compensation for Group

Use.—

(1) In General.—Subject to paragraph (2), a

third party may not use the name, image, or likeness

of any group described in subsection (a) to sell or

promote any product or service unless the third

party obtains the written consent from each member

of the group for that purpose.

(2) Certain Third Party Agreements with

Institutions, Conferences, and Athletic Asso-
ciations.—

(A) In General.—Paragraph (1) shall not

apply to a third party that enters into an agree-

ment with an institution, a conference, or an

athletic association to produce or distribute live,

archival, or delayed audiocast or videocast of a

varsity intercollegiate sports competition of the

institution, including—
(i) a commercial that promotes such a competition; and
(ii) audio or video distributions of such a competition.

(B) Rule of Construction.—Nothing in this paragraph may be construed to require an institution, a conference, or an athletic associations to provide compensation or payment to any student athlete for appearing in an audiocast or videocast of a varsity intercollegiate sports competition of an institution.

(c) Rescission of Agreements.—In the case of a student athlete who no longer participates in a varsity intercollegiate athletic program, the student athlete may rescind a name, image, and likeness agreement with a remaining term of more than 1 year—
(1) without being held liable for breach; and
(2) with no obligation to return payments received before giving notice of the rescission.

(d) Educational Resources.—The Commission shall make available on a publicly accessible internet website of the Commission educational resources for student athletes with respect to financial and contract literacy and earning covered compensation for the commer-
cial use of the name, image, or likeness of the student athlete, which shall—

(1) generally describe the legal and business concepts to be considered in licensing publicity rights; and

(2) include information concerning the implications of contract provisions that may restrict a student athlete’s choice of institutions or bind the student athlete to long-term arrangements.

SEC. 4. PROHIBITIONS ON CERTAIN ACTIVITIES OF INSTITUTIONS, BOOSTERS, AND THIRD PARTIES.

(a) Restrictions on Earning Covered Compensation.—Except as provided in a rule established in accordance with section 8, an athletic association, a conference, or an institution may not—

(1) adopt or maintain a contract, rule, regulation, standard, or other requirement that prevents or unduly restricts a student athlete from earning covered compensation for the use of the name, image, or likeness of the student athlete;

(2) impose a speech restriction for student athletes that is more stringent than any speech restriction imposed on other students at the same institution;
(3) limit athletic opportunities for a student athlete solely on the basis of the student athlete's commercial use of his or her name, image, or likeness; or

(4) coordinate or cooperate with any other institution, conference, or athletic association to limit payment offered to a student athlete under a name, image, and likeness agreement.

(b) Classification of Student Athletes.—Notwithstanding any other provision of Federal or State law, a student athlete shall not be considered an employee of an athletic association, a conference, or an institution with respect to the participation of the student athlete in a varsity intercollegiate sports competition.

(c) Scholarships.—An institution, a conference, or an athletic association may not revoke, reduce, or impose a condition on an athletic scholarship of a student athlete based on the student athlete having earned covered compensation or having obtained a certified agent in accordance with this Act.

(d) Preventing Conflicts of Interest.—An institution, an athletic association, a conference, or a business partner of such an entity may not—
(1) represent a student athlete or prospective student athlete in a name, image, and likeness agreement;

(2) arrange a name, image, and likeness agreement on behalf of a student athlete or prospective student athlete;

(3) enter into a name, image, and likeness agreement with a student athlete or prospective student athlete;

(4) regulate the representation of a student athlete or a group of student athletes or a prospective student athlete or group of prospective student athletes with respect to a name, image, and likeness agreement; or

(5) engage in the certification or promotion of individuals for such representation.

(e) CERTIFIED AGENT RESTRICTION.—

(1) IN GENERAL.—A certified agent may not represent a prospective student athlete in a name, image, and likeness agreement if the prospective student athlete plans to enroll in an institution and participate in a varsity intercollegiate sports competition for such institution.

(2) EXCLUSION.—For purposes of this subsection, a family member of a prospective student
athlete shall not be considered to be a certified agent with respect to representation of the prospective student athlete.

(f) **CONFLICTS WITH CONTRACTS OR RULES OF INSTITUTION.**—

  (1) **IN GENERAL.**—Except as provided in paragraph (2), a third party may not enter into, or offer to enter into, a name, image, and likeness agreement with a student athlete that provides covered compensation if a provision of the name, image, and likeness agreement conflicts with a provision of a contract, rule, regulation, standard, or other requirement of the applicable institution.

  (2) **EXCEPTION.**—A third party may enter into, or offer to enter into, a name, image, and likeness agreement with a student athlete that conflicts with a provision of a contract, rule, regulation, standard, or other requirement of the applicable institution if—

      (A) the institution consents, in writing, to the name, image, and likeness agreement; or

      (B) the contract, rule, regulation, standard, or other requirement unduly restricts student athletes from earning covered compensation for the use of the name, image, or likeness
of the student athlete, as determined by the Commission.

(3) DISCLOSURES.—

(A) CONFLICTS.—An institution asserting a conflict described in paragraph (1) shall disclose to the certified agent and the Commission each relevant term of the contract, rule, regulation, standard, or other requirement of the varsity intercollegiate athletic program.

(B) RESTRICTIONS.—A certified agent asserting a restriction described in paragraph (2)(B) shall disclose to the Commission the nature of such restriction.

(g) AGENT ACTIVITIES.—An individual may not carry out any agent activity or representation of a student athlete with respect to a student athlete name, image, and likeness agreement unless the individual is a certified agent.

(h) PROHIBITED AGREEMENTS.—An athletic association, a conference, or an institution may prohibit a student athlete from entering into a name, image, and likeness agreement with a third party for the promotion of gambling, tobacco, or alcohol products, or adult entertainment.
SEC. 5. TRANSPARENCY AND ACCOUNTABILITY RELATING TO NAME, IMAGE, AND LIKENESS AGREEMENTS AND STUDENT ATHLETE ENDORSEMENTS.

(a) Receipt of Covered Compensation.— Not later than 5 days after the date on which a student athlete receives covered compensation under a name, image, and likeness agreement, the certified agent representing the student athlete shall report to the institution—

(1) the receipt and amount of such covered compensation; and

(2) the terms and conditions of the name, image, and likeness agreement, including the name of each party to the agreement.

(b) Written Consent Required.—An institution may not publicly disclose any information with respect to a name, image, and likeness agreement between a student athlete and a third party without the express written consent of the student athlete.

SEC. 6. LIMITATION ON TRANSFER PENALTIES; PROHIBITION ON INDUCEMENTS.

(a) Limitation on Transfer Penalties.—An institution, an athletic association, or a conference shall allow a student athlete to transfer from one institution to another not less than once without losing or delaying
grant-in-aid opportunities or eligibility to participate in a varsity intercollegiate sports competition if—

(1) not less than 7 days before transferring, the student athlete provides to his or her institution notice of intent to transfer; and

(2) the transfer does not occur during—

(A) the season of the varsity intercollegiate sports competition of the student athlete; or

(B) the 60-day period before the commencement of such season.

(b) Prohibition on Inducements.—

(1) In General.—An institution, an athletic association, a conference, a booster, a third party, or any agent of such an entity, may not offer or provide—

(A) a student athlete with any compensation or benefit (other than grant-in-aid) that is—

(i) conditioned on the student athlete enrolling in, maintaining enrollment in, or transferring to a particular institution; or

(ii) intended to induce the student athlete to enroll in, maintain enrollment in, or transfer to a particular institution; or
(B) a prospective student athlete with any compensation or benefit (other than grant-in-aid) that is—

(i) conditioned on the prospective student athlete enrolling in a particular institution; or

(ii) intended to induce the prospective student athlete to enroll in a particular institution.

(2) CAMPUS TOURS.—Notwithstanding paragraph (1), an institution, an athletic association, or a conference may provide to a student athlete or a prospective student athlete reimbursement for expenses relating to campus tours or visits.

SEC. 7. ENFORCEMENT BY THE COMMISSION.

(a) Office of Sport.—

(1) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this Act, the Chair shall—

(A) establish within the Commission the “Office of Sport” (in this section referred to as the “Office”); and

(B) appoint a Director of the Office (in this section referred to as the “Director”).
(2) PURPOSE.—The purpose of the Office is to assist the Commission in protecting amateur, collegiate, and professional athletes from unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) DUTIES.—

(1) IN GENERAL.—The Director shall engage in activities that include—

(A) leading and coordinating the Commission’s work in furtherance of the purpose described in subsection (a)(2);

(B) coordinating and consulting with the Bureau of Consumer Protection of the Commission and the Bureau of Competition of the Commission;

(C) developing guidance and recommendations; and

(D) organizing public workshops, issuing reports, and providing educational materials.

(2) OVERSIGHT OF NAME, IMAGE, AND LIKENESS RIGHTS AND PROTECTIONS.—With respect to the implementation of this Act, the duties of the Office are as follows:
(A) To establish a process for hearing, addressing, and resolving complaints, concerns, conflicts, and grievances from student athletes, institutions, conferences, athletic associations, certified agents, and third parties alleging violations of this Act or any rule or standard developed under this Act.

(B) To establish a certification process and set and enforce standards for, and maintain a registry of, certified agents.

(C) To determine the financial limits for boosters, as described in clauses (i) and (ii) of section 2(4)(A).

(D) On an ongoing basis and as necessary, to gather and compile information relating to the development and status of the student athlete name, image, and likeness market.

(E) To provide confidential guidance to student athletes.

(F) To develop rules to carry out the activities described in this paragraph.

(c) Enforcement Authority.—

(1) IN GENERAL.—A violation of this Act or any rule or standard developed pursuant to subsection (b)(2) shall be treated as a violation of a rule
defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of the Federal Trade Commission.—The Commission shall enforce this Act and any rule or standard developed pursuant to subsection (b)(2) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(3) Nonprofit Organizations.—Notwithstanding section 4 of the Federal Trade Commission Act (15 U.S.C. 44) or any jurisdictional limitation of the Commission, the Commission shall also enforce this Act and any rule or standard developed pursuant to subsection (b)(2) in the same manner provided in paragraph (1), with respect to organizations not organized to carry on business for their own profit or that of their members.

(4) Penalties; Privileges and Immunities.—Any person who violates this Act or any rule or standard developed pursuant to subsection (b)(2) shall be subject to the penalties and entitled to the
privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

SEC. 8. ROLE OF ATHLETIC ASSOCIATIONS AND CONFERENCES.

Athletic associations and conferences may—

(1) establish rules, consistent with this Act and any rule or standard developed under this Act;

(2) establish rules that prohibit payments of compensation to prospective student athletes and student athletes by institutions, conferences, and athletic associations; and

(3) enforce the rules established under paragraphs (1) and (2) by declaring ineligible for a varsity intercollegiate sports competition a student athlete or a prospective student athlete who receives payments in violation of this Act or any rule or standard developed under this Act.

SEC. 9. COMPTROLLER GENERAL REPORT ON HEALTH, SAFETY, AND EDUCATION NEEDS.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the health, safety, and education needs of student athletes.
(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include the following:

(1) An analysis of the current state of student athlete health insurance coverage in the United States, including a comparison of amounts and types of coverage offered by institutions of varying sizes and resources.

(2) An analysis of the degree to which student athletes are not covered for injuries or conditions related to their participation in athletics.

(3) An analysis of the additional cost to institutions of providing health insurance coverage to student athletes for each year, up to 5 years, after graduation.

(4) An analysis of the need for health and safety standards for varsity intercollegiate athletic programs.

(5) An analysis of the current authorities and activities of the Department of Health and Human Services to determine whether the Department of Health and Human Services possesses the appropriate authority or expertise to develop and enforce such health and safety standards.

(6) An analysis of the extent to which student athletes are unable to complete their degree due to
losing scholarship support before graduation within 4 years.

(7) An analysis of the additional cost to institutions of providing guaranteed scholarships for student athletes for each additional year, up to 5 years, after a typical 4-year enrollment.

SEC. 10. LIMITATION OF LIABILITY.

(a) IN GENERAL.—An institution, a conference, and an athletic association shall comply with the requirements of this Act and with any rule or standard developed under this Act, but shall not be held liable under any provision of Federal or State law for prohibiting a student athlete or prospective student athlete from being paid by an institution, conference, or athletic association or for prohibiting a student athlete or prospective student athlete from being paid for the commercial use of the name, image, or likeness of the student athlete or prospective student athlete before the date of the enactment of this Act.

(b) RULE OF CONSTRUCTION.—Except as provided in subsection (a), nothing in this Act or the fact or circumstances of the enactment of this Act may be construed to or relied upon by any court—

(1) to alter the application of Federal or State antitrust law to intercollegiate athletics;
(2) to imply the creation of any cause of action not created expressly by this Act; or
(3) to retroactively create liability, or invalidate legal defenses, related to aspects of intercollegiate athletics not directly addressed by this Act.

SEC. 11. RELATIONSHIP TO STATE LAWS.

(a) IN GENERAL.—No State or political subdivision of a State may establish or continue in effect any law, regulation, rule, requirement, or standard that governs or regulates the compensation, publicity rights, employment status, or eligibility for competition of a student athlete or prospective student athlete, including any provision that governs or regulates the commercial use of the name, image, or likeness of a student athlete or prospective student athlete;

(b) UNAUTHORIZED USE BY A THIRD PARTY.—A State or political subdivision of a State may establish and enforce laws that prohibit the unauthorized use of the name, image, and likeness of a student athlete or prospective student athlete by a third party.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Commission such sums as are necessary to carry out this Act.