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3 HOUSE STATE GOVERNMENT COMMITTEE SUBSTITUTE FOR HB404
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8 SYNOPSIS: This bill would provide that a student
9 athlete may earn compensation for the use of the
10 student athlete's name, image, or likeness.

11 This bill would also provide that certain
12 postsecondary educational institutions may not
13 prevent or unreasonably restrict the receipt of
14 compensation by a student athlete for use of their
15 name, image, or likeness.

16 This bill would establish the Alabama
17 Collegiate Athletics Commission to provide rules
18 and recommendations on matters related to name,
19 image, and likeness issues, and to require each
20 postsecondary educational institution to conduct a
21 financial literacy and life skills workshop for
22 student athletes. The bill would provide for
23 penalties for violations of the act and rules
24 adopted by the commission, and would provide for
25 enforcement by the Alabama Athlete Agents
26 Commission.
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1 a stipend given to a student athlete by a postsecondary
2 educational institution which is calculated based on the cost
3 of living and cost of attendance at the institution.

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

6 (3) NAME, IMAGE, OR LIKENESS. Any or all of those
7 elements that, together, are known as the right of publicity.

8 (4) POSTSECONDARY EDUCATIONAL INSTITUTION. A public
9 university or college in this state or an institution for
10 higher education as defined in Section 16-18A-2, Code of
11 Alabama 1975. This term does not include any Alabama Community
12 College System institutions.

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

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

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

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

5 a. A tobacco company or brand, including any tobacco
6 product, alternative nicotine product, electronic nicotine
7 delivery system, or any electronic nicotine delivery system
8 retailer, or any specialty retailer of electronic nicotine
9 delivery systems or tobacco specialty store, as defined in
10 Section 28-11-2, Code of Alabama 1975.

11 b. Any alcoholic beverage company or brand.

12 c. Any seller or dispensary of a controlled
13 substance, including, but not limited to, marijuana.

14 d. Any adult entertainment business.

15 e. Any casino or entities that sponsor or promote
16 gambling activities.

17 f. Any entity or individual that, in the reasonable
18 and good faith judgment of the postsecondary educational
19 institution, negatively impacts or reflects adversely on the
20 postsecondary educational institution or its athletic
21 programs, including, but not limited to, bringing about public
22 disrepute, contempt, embarrassment, scandal, ridicule, or
23 otherwise negatively impacting the reputation or the moral or
24 ethical standards of the postsecondary educational
25 institution.

26 (2) A postsecondary educational institution may also
27 prohibit a student athlete from wearing any item of clothing,

1 shoes, or other gear with the insignia of any entity while
2 wearing athletic gear or uniforms licensed by a postsecondary
3 educational institution or otherwise competing in any athletic
4 competition or institutionally-sponsored event.

5 (c) Compensation for a student athlete's name,
6 image, or likeness may not be conditioned on athletic
7 performance or attendance at a particular postsecondary
8 educational institution.

9 (d) Compensation for the use of a student athlete's
10 name, image, or likeness may be provided only by a third party
11 not owned or operating under the authority of the student
12 athlete's postsecondary educational institution.

13 (e) A postsecondary educational institution, an
14 entity with the purpose of supporting or benefitting the
15 institution or its intercollegiate sports, or any officer,
16 director, or employee of the institution or entity may not
17 compensate or cause compensation to be directed to a student
18 athlete or the family of a student athlete for use of their
19 name, image, or likeness.

20 (f) Except with the prior written consent of the
21 postsecondary education institution, a student athlete may not
22 enter into a contract for compensation for the use of the
23 student athlete's name, image, or likeness if the institution
24 determines that a term of the contract conflicts with a term
25 of a contract held by the student athlete's postsecondary
26 education institution.

1 (g) Before any contract for compensation for the use
2 of a student athlete's name, image, or likeness is executed,
3 and before any compensation is provided to the student athlete
4 in advance of a contract, the student athlete shall disclose
5 that contract to his or her postsecondary educational
6 institution in a manner prescribed by the institution.

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

13 Section 3. (a) A postsecondary educational
14 institution may not prevent or unreasonably restrict a student
15 athlete from obtaining professional representation for the
16 purpose of securing compensation for the use of the student
17 athlete's name, image, or likeness.

18 (b) An individual representing a student athlete for
19 purposes of exploring or securing compensation for the student
20 athlete's name, image, or likeness shall be registered as an
21 athlete agent with the state pursuant to Section 8-26B-4, Code
22 of Alabama 1975, or shall be a licensed attorney and a member
23 in good standing of the Alabama State Bar.

24 (c) A student athlete participating in
25 intercollegiate sports at a postsecondary educational
26 institution shall provide the institution with written notice
27 at least seven days prior to entering into a representation

1 agreement with any individual for purposes of exploring or
2 securing compensation for use of the student athlete's name,
3 image, or likeness.

4 Section 4. A scholarship awarded to a student
5 athlete by a postsecondary educational institution may not be
6 revoked or reduced as a result of the receipt of compensation
7 by a student athlete for use of their name, image, or
8 likeness, or as a result of the student athlete obtaining
9 professional representation pursuant to this act and any rule
10 adopted by the Alabama Collegiate Athletics Commission under
11 Section 6.

12 Section 5. (a) Each postsecondary educational
13 institution shall conduct financial literacy and life skills
14 programming for student athletes. At a minimum, the
15 programming must include information concerning financial aid
16 and debt management, as well as recommended model budgets for
17 student athletes based on that academic year's estimated cost
18 of attendance and the various scholarship statuses of student
19 athletes at the institution. The programming shall also
20 include information on time management skills necessary for
21 success as a student athlete and available academic resources.

22 (b) The programming may not include any marketing,
23 advertising, referral, or solicitation by providers of
24 financial products or services.

25 (c) This section does not place any obligation on a
26 postsecondary educational institution to provide tax guidance

1 or financial safeguards to student athletes outside of the
2 programming required under this section.

3 Section 6. (a) There is established the Alabama
4 Collegiate Athletics Commission. The purpose of the commission
5 shall be to develop rules and recommendations to maintain the
6 fairness and integrity of amateur intercollegiate athletics
7 and the principle of amateurism in intercollegiate athletics,
8 consistent with this act. The commission may do all of the
9 following:

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

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

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

21 (4) Make rules or recommendations regarding the
22 financial literacy and life skills programming required by
23 this act.

24 (b) The commission shall consist of six members,
25 including the Governor, who shall serve as chair; the
26 Lieutenant Governor; the President Pro Tempore of the Senate;

1 the Speaker of the House of Representatives; and the Minority
2 Leaders of the House of Representatives and the Senate.

3 (c) The commission may consult with individuals or
4 groups with information or knowledge about issues related to
5 name, image, and likeness, including, but not limited to,
6 current or former student athletes, coaches, conference or
7 school administrators, professionals with expertise in sports
8 marketing, contracting and public relations, athlete agents,
9 and the Alabama Athlete Agents Commission.

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

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

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

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

19 (e) A violation of a rule of the commission shall be
20 punishable by a civil penalty of up to one thousand dollars
21 (\$1,000).

22 Section 7. A student athlete may not receive or
23 enter into a contract for compensation for use of his or her
24 name, image, or likeness in a way that also uses any
25 registered or licensed marks, logos, verbiage, or designs of a
26 postsecondary education institution, unless the institution
27 has provided the student athlete with written permission to do

1 so prior to the execution of the contract. If permission is
2 granted, the postsecondary education institution, by agreement
3 of all parties, may be compensated for the use in a manner
4 consistent with market rates or prior practice.

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

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

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

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

25 Section 12. (a) An individual other than a student
26 athlete who violates subsections (c), (d), or (e) of Section 2
27 or who grants compensation to a student athlete in a manner

1 that causes the student athlete to violate Section 8 shall be
2 guilty of a Class C felony.

3 (b) A student athlete who receives compensation as a
4 result of a violation of subsections (c), (d), or (e) of
5 Section 2 or Section 8 shall be guilty of a Class A
6 misdemeanor.

7 (c) (1) Compliance with this act and the rules
8 adopted by the Alabama Collegiate Athletics Commission shall
9 be monitored by the Alabama Athlete Agents Commission.

10 (2) If any officer or employee of a postsecondary
11 educational institution, athlete agent, licensed attorney, or
12 student athlete witnesses a potential violation of this act or
13 the rules adopted by the Alabama Collegiate Athletics
14 Commission, he or she shall report that potential violation to
15 the Alabama Athlete Agents Commission, which shall work with
16 appropriate law enforcement as necessary to investigate and
17 address credible reports.

18 Section 13. Section 8-26B-32 is added to the Code of
19 Alabama 1975, to read as follows:

20 §8-26B-32.

21 The Alabama Athlete Agents Commission shall carry
22 out the functions assigned to it in Section 12 of the act
23 creating this code section, relating to oversight and
24 enforcement of the act and rules adopted by the Alabama
25 Collegiate Athletics Commission.

1 Section 14. This act shall become effective on July
2 1, 2021, following its passage and approval by the Governor,
3 or its otherwise becoming law.