CHAPTER 158

Intercollegiate Athletes' Compensation for Name, Image, or Likeness

Editor's Note

2022 Act No. 239, Section 117.172, provides as follows:

"117.172. (GP: Name Image Likeness) For Fiscal Year 2022‑23, Act 35 of 2021 in its entirety pertaining to intercollegiate athlete (NIL) name, image, or likeness is suspended."

**SECTION 59‑158‑10.** Definitions.

 For the purposes of this chapter:

 (1) "Athlete agent" means a person who is registered with the Department of Consumer Affairs pursuant to Section 59‑102‑60 or Section 59‑102‑80. If an athlete agent is an attorney, then he must also be a member in good standing of a state bar association.

 (2) "Compensation" means any remuneration, in cash or in kind, whether provided at the time or at any subsequent date, to an intercollegiate athlete. "Compensation" does not mean any grant, scholarship, fellowship, tuition assistance, or other form of financial aid provided to a student for pursuing a post‑secondary education.

 (3) "Institution of higher learning" means any post‑secondary educational institution, including a technical or comprehensive educational institution.

 (4) "Intercollegiate athlete" means an individual who has graduated from high school that engages in, is eligible to engage in, or may be eligible in the future to engage in an intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, then the individual is not an intercollegiate athlete for the purposes of that sport.

 (5) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by an intercollegiate athlete are established by a national association that promotes or regulates collegiate athletics.

 (6) "Name, image, or likeness activities", "name, image, or likeness contract", "NIL activities", or "NIL contract" means an agreement in which an intercollegiate athlete participating in intercollegiate sports authorizes a person to use his name, image, or likeness and, in return, receives consideration. This term shall include, but is not limited to, endorsement contracts.

 (7) "Third party" means, with respect to an intercollegiate athlete, any entity other than the institution of higher learning in which the intercollegiate athlete is enrolled.

HISTORY: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021; 2024 Act No. 207 (H.4957), Section 1, eff May 21, 2024.

Editor's Note

2021 Act No. 35, Section 7, provides as follows:

"SECTION 7. This act takes effect for each institution of higher learning in this State upon the earlier of July 1, 2022, or certification by the Attorney General to the Governor of the enactment of rules consistent with the provisions contained in this act by the institution of higher learning's collegiate governing body [July 1, 2021]. Upon certification by the Attorney General, the provisions of this act are suspended until the General Assembly takes further action."

Effect of Amendment

2024 Act No. 207, Section 1, deleted (2), which related to the definition of "Athletic booster", and redesignated former (3) to (7) as (2) to (6); in (2), in the first sentence, substituted "an intercollegiate athlete" for "a student athlete"; in (4), in the first sentence, inserted "has graduated from high school that"; deleted (8) and (9), which related to the definitions of "Recruit or solicit" and "Team contract", and redesignated former (10) as (7); and deleted (11), which related to the definition of "Third‑party endorsement".

**SECTION 59‑158‑20.** Compensation for use of intercollegiate athlete's name, image, or likeness; prohibited acts.

 (A) An institution of higher learning or any officer, trustee, director, or employee may directly or through an agreement with a third party, identify, create, solicit, facilitate, and otherwise enable opportunities for a currently enrolled intercollegiate athlete to earn compensation for the use of the intercollegiate athlete's name, image, or likeness. An institution of higher learning may grant permission to intercollegiate athletes to use its trademarks and facilities.

 (B) An institution of higher learning may not receive compensation or fees directly from an intercollegiate athlete related to the facilitation of NIL.

 (C) No appropriated funds of an institution of higher learning may be used to pay an intercollegiate athlete compensation for the use of their name, image, and likeness.

 (D) Compensation earned by an intercollegiate athlete for the use of his name, image, or likeness must represent payment for the use of his name, image, or likeness, independent of, rather than as payment for, his athletic participation or performance unless otherwise permitted or authorized by a collegiate athletic association and institution of higher learning policy, a court order, or a settlement agreement.

HISTORY: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021; 2024 Act No. 207 (H.4957), Section 2, eff May 21, 2024.

Editor's Note

2021 Act No. 35, Section 7, provides as follows:

"SECTION 7. This act takes effect for each institution of higher learning in this State upon the earlier of July 1, 2022, or certification by the Attorney General to the Governor of the enactment of rules consistent with the provisions contained in this act by the institution of higher learning's collegiate governing body [July 1, 2021]. Upon certification by the Attorney General, the provisions of this act are suspended until the General Assembly takes further action."

Effect of Amendment

2024 Act No. 207, Section 2, rewrote the section.

**SECTION 59‑158‑30.** Extension of agreements beyond participation eligibility prohibited.

 A name, image, or likeness contract with an intercollegiate athlete may not extend beyond their eligibility to participate in an intercollegiate athletics program at an institution of higher learning.

HISTORY: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021; 2024 Act No. 207 (H.4957), Section 3, eff May 21, 2024.

Editor's Note

2021 Act No. 35, Section 7, provides as follows:

"SECTION 7. This act takes effect for each institution of higher learning in this State upon the earlier of July 1, 2022, or certification by the Attorney General to the Governor of the enactment of rules consistent with the provisions contained in this act by the institution of higher learning's collegiate governing body [July 1, 2021]. Upon certification by the Attorney General, the provisions of this act are suspended until the General Assembly takes further action."

Effect of Amendment

2024 Act No. 207, Section 3, rewrote the section.

**SECTION 59‑158‑40.** Institutional liability protections; athletic associations and conferences.

 (A)(1) An institution of higher learning may prohibit an intercollegiate athlete from using his name, image, or likeness for compensation if the proposed use of his name, image, or likeness conflicts with institutional values as defined by the institution of higher learning.

 (2) An intercollegiate athlete may not earn compensation for the use of his name, image, or likeness for the endorsement of tobacco, alcohol, illegal substances or activities, banned athletic substances, or gambling including, but not limited to, sports betting.

 (B) An institution of higher learning or any officers, trustees, directors, employees, including athletics coaching staff, may not be liable for any damages to an intercollegiate athlete's ability to earn compensation for the use of the intercollegiate athlete's name, image, or likeness resulting from decisions or actions routinely taken in the course of intercollegiate athletics. However, nothing in this section should be construed to bar any common law claims by intercollegiate athletes of fraud, fraudulent misrepresentation, or intentional misrepresentation.

 (C) An athletic association, an athletic conference, or any other group or organization with authority over an intercollegiate athletic program at an institution of higher learning to which this chapter applies may not:

 (1) enforce a contract term, a rule, a regulation, a standard, a bylaw, guidance, or any other requirement that prohibits the institution from participating in intercollegiate sports or otherwise penalizes the institution, the institution's intercollegiate athletic program, or intercollegiate athletes for performing, participating in, or allowing an activity required or authorized by this chapter; or

 (2) prevent an institution of higher learning from establishing agreements with a third‑party entity to act on the institution's behalf to identify, facilitate, enable, or support an intercollegiate athlete's name, image, or likeness activities.

HISTORY: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021; 2024 Act No. 207 (H.4957), Section 4, eff May 21, 2024.

Editor's Note

2021 Act No. 35, Section 7, provides as follows:

"SECTION 7. This act takes effect for each institution of higher learning in this State upon the earlier of July 1, 2022, or certification by the Attorney General to the Governor of the enactment of rules consistent with the provisions contained in this act by the institution of higher learning's collegiate governing body [July 1, 2021]. Upon certification by the Attorney General, the provisions of this act are suspended until the General Assembly takes further action."

Effect of Amendment

2024 Act No. 207, Section 4, rewrote the section.

**SECTION 59‑158‑50.** Disclosure of agreement terms; limitations.

 (A) If an institution of higher learning collects, retains, or maintains copies or summaries of the terms of an intercollegiate athlete's name, image, or likeness contract or proposed contract detailing compensation to the intercollegiate athlete for the use of the intercollegiate athlete's name, image, or likeness or athletic reputation, the documentation may not be considered a public record under Section 30‑4‑20(C) unless they are a party.

 (B) An institution of higher learning may not be compelled to disclose the information to a collegiate athletic association, athletic conference, or other group or organization with authority over an intercollegiate athletic program at an institution of higher learning.

HISTORY: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021; 2024 Act No. 207 (H.4957), Section 5, eff May 21, 2024.

Editor's Note

2021 Act No. 35, Section 7, provides as follows:

"SECTION 7. This act takes effect for each institution of higher learning in this State upon the earlier of July 1, 2022, or certification by the Attorney General to the Governor of the enactment of rules consistent with the provisions contained in this act by the institution of higher learning's collegiate governing body [July 1, 2021]. Upon certification by the Attorney General, the provisions of this act are suspended until the General Assembly takes further action."

Effect of Amendment

2024 Act No. 207, Section 5, rewrote the section.

**SECTION 59‑158‑60.** Interpretation of chapter; athlete agent compliance with federal law.

 (A) If there is a conflict between the provisions of this chapter and those of Chapter 102, then the provisions of this chapter govern. An athlete agent representing an intercollegiate athlete in a transaction authorized pursuant to this chapter also shall comply with all provisions contained in Chapter 102 that do not conflict with the provisions of this chapter.

 (B) An athlete agent shall comply with the federal "Sports Agent Responsibility and Trust Act", 15 U.S.C. Sections 7801‑7807.

HISTORY: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021; 2024 Act No. 207 (H.4957), Section 6, eff May 21, 2024.

Editor's Note

2021 Act No. 35, Section 7, provides as follows:

"SECTION 7. This act takes effect for each institution of higher learning in this State upon the earlier of July 1, 2022, or certification by the Attorney General to the Governor of the enactment of rules consistent with the provisions contained in this act by the institution of higher learning's collegiate governing body [July 1, 2021]. Upon certification by the Attorney General, the provisions of this act are suspended until the General Assembly takes further action."

Effect of Amendment

2024 Act No. 207, Section 6, rewrote the section.

**SECTION 59‑158‑70.** Repealed.

HISTORY: Former Section, titled Prominent disclosures requiring separate acknowledgement in name, image, or likeness contracts; ten‑day revocation period; additional disclosures and limitations, had the following history: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021. Repealed by 2024 Act No. 207, Section 9, eff May 21, 2024.

**SECTION 59‑158‑80.** Repealed.

HISTORY: Former Section, titled Governing law; compliance with federal Sports Agent Responsibility and Trust Act, had the following history: 2021 Act No. 35 (S.685), Section 1, eff July 1, 2021. Repealed by 2024 Act No. 207, Section 9, eff May 21, 2024.