

As Reported by the House Civil Justice Committee

135th General Assembly

Regular Session

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Sub. H. B. No. 660

Representatives Mathews, Edwards

A BILL

To amend sections 3345.56, 3376.01, 3376.02, 1
3376.03, 3376.04, 3376.06, and 3376.07; to 2
amend, for the purpose of adopting a new section 3
number as indicated in parentheses, section 4
3345.56 (3376.11); to enact sections 3376.09, 5
3376.10, 3376.12, and 3376.13; and to repeal 6
section 3376.05 of the Revised Code to revise 7
the law governing compensation to 8
intercollegiate athletes. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3345.56, 3376.01, 3376.02, 10
3376.03, 3376.04, 3376.06, and 3376.07 be amended; section 11
3345.56 (3376.11) be amended for the purpose of adopting a new 12
section number as indicated in parentheses; and sections 13
3376.09, 3376.10, 3376.12, and 3376.13 of the Revised Code be 14
enacted to read as follows: 15

Sec. 3376.01. As used in this chapter: 16

(A) "Athlete agent" means an individual who holds a 17
current and valid certificate of registration issued under 18
section 4771.08 of the Revised Code or certificate of 19

convenience issued under section 4771.09 of the Revised Code. 20

(B) "Institutional marketing associate" means any 21
individual or entity, including an athlete agent, that enters 22
into a contract with, or otherwise acts on behalf of, a state 23
institution of higher education, private college, or an 24
institution's or college's intercollegiate athletics department. 25
"Institutional marketing associate" does not include either of 26
the following: 27

(1) A state institution of higher education, private 28
college, athletic association, conference, or other group or 29
organization with authority over intercollegiate athletics; 30

(2) A staff member, employee, officer, director, manager, 31
or owner of any of the entities described under division (B) (1) 32
of this section. 33

(C) "Official team activities" means all games, practices, 34
exhibitions, scrimmages, team appearances, team photograph 35
sessions, sports camps sponsored by a state institution of 36
higher education or private college, and other team-organized 37
activities, regardless of whether the activity takes place on or 38
off campus, including individual photograph sessions and news 39
media interviews. 40

(D) "State institution of higher education" has the same 41
meaning as in section 3345.011 of the Revised Code. 42

~~(B)~~ (E) "Student-athlete" means an individual who is 43
eligible to participate in, participates in, or has participated 44
in intercollegiate athletics for a state institution of higher 45
education or private college. "Student-athlete" does not include 46
an individual who participates in intramural athletics at a 47
state institution of higher education or private college or who 48

participates in professional athletics. 49

(F) "Private college" has the same meaning as in section 50
3365.01 of the Revised Code. 51

Sec. 3376.02. (A) No state institution of higher education 52
or private college shall uphold any rule, requirement, standard, 53
or other limitation that prevents a ~~student-student-athlete~~ of 54
that institution or college from fully participating in 55
intercollegiate athletics because the ~~student earns student-~~ 56
athlete does either of the following: 57

(1) Earns compensation as a result of the use of the 58
student's-student-athlete's name, image, or likeness or any 59
other compensation related to the student-athlete's position on 60
the roster of an intercollegiate athletics team; 61

(2) Obtains professional representation from an athlete 62
agent or attorney. 63

(B) Earning compensation from the use of a ~~student's-~~ 64
student-athlete's name, image, or likeness, or obtaining 65
professional representation from an athlete agent or attorney, 66
shall not affect the ~~student's-student-athlete's~~ scholarship 67
eligibility or renewal. 68

Sec. 3376.03. An athletic association, conference, or 69
other group or organization with authority over intercollegiate 70
athletics, ~~including the national collegiate athletic-~~ 71
~~association or its successor organization,~~ shall not do either- 72
any of the following: 73

(A) Prevent a ~~student-student-athlete~~ of a state 74
institution of higher education or private college from fully 75
participating in intercollegiate athletics because the ~~student-~~ 76
earns-student-athlete does either of the following: 77

(1) Earns compensation as a result of the use of the 78
student's student-athlete's name, image, or likeness or any 79
other compensation related to the student-athlete's position on 80
the roster of an intercollegiate athletics team; 81

(2) Obtains professional representation from an athlete 82
agent or attorney. 83

(B) Prevent a state institution of higher education or 84
private college from fully becoming a member of the athletic 85
association, conference, or other group or organization or from 86
participating in intercollegiate athletics sponsored by the 87
athletic association, conference, or other group or organization 88
because a ~~student~~-student-athlete of that institution or college 89
participating in intercollegiate athletics does either of the 90
following: 91

(1) Uses ~~Earns~~ compensation from the use of the student's 92
student-athlete's name, image, or likeness or any other 93
compensation related to the student-athlete's position on the 94
roster of an intercollegiate athletics team; 95

(2) Obtains professional representation from an athlete 96
agent or attorney in relation to contracts or legal matters 97
regarding opportunities to earn compensation for use of the 98
student's name, image, or likeness. 99

(C) Consider a complaint, initiate an investigation, or 100
take any adverse action against a state institution of higher 101
education, private college, or institutional marketing associate 102
for engaging in any conduct authorized under this chapter; 103

(D) Penalize a state institution of higher education, 104
private college, or student-athlete, or prevent the institution, 105
college, or student-athlete from participating in 106

intercollegiate athletics, because another individual or third- 107
party entity whose purpose includes supporting or benefiting the 108
institution, college, or student-athlete violates a rule or 109
regulation of the athletic association, conference, or other 110
group or organization that addresses compensation for use of a 111
student-athlete's name, image, or likeness. 112

(E) Prevent a state institution of higher education or 113
private college from compensating a student-athlete for use of 114
the student-athlete's name, image, or likeness or any other 115
compensation related to the student-athlete's position on the 116
roster of an intercollegiate athletics team; 117

(F) Prevent a state institution of higher education, 118
private college, or institutional marketing associate from 119
identifying, creating, facilitating, negotiating, supporting, 120
assisting with, engaging with, or otherwise enabling 121
opportunities for a student-athlete to earn compensation for use 122
of the student-athlete's name, image, or likeness. 123

Sec. 3376.04. No state institution of higher education, 124
private college, athletic association, conference, or other 125
group or organization with authority over intercollegiate 126
athletics shall do any of the following: 127

~~(A) Provide a prospective student who intends to~~ 128
~~participate in intercollegiate athletics with~~ Prevent a student- 129
athlete from earning compensation in relation to the prospective 130
student's for use of the student-athlete's name, image, or 131
likeness if the student-athlete earns that compensation in 132
accordance with this chapter; 133

~~(B) Prevent a student who resides in this state and~~ 134
~~participates in intercollegiate athletics~~ student-athlete from 135

obtaining professional representation from an athlete agent or 136
attorney in relation to contracts or legal matters regarding 137
opportunities to be compensated for use of the student's name, 138
image, or likeness; 139

(C) Interfere with or prevent a ~~student~~student-athlete 140
from fully participating in intercollegiate athletics because 141
the ~~student~~student-athlete obtains professional representation 142
from an athlete agent or attorney in relation to contracts or 143
legal matters regarding opportunities to earn compensation for 144
use of the student's name, image, or likeness. 145

(D) Enter into, renew, or modify any agreement that 146
prohibits a student-athlete from earning compensation for use of 147
the student-athlete's name, image, or likeness while the 148
student-athlete is engaged in activities that do not relate to 149
academic, athletic department, or official team activities. 150

Sec. 3376.06. (A) ~~As used in this section:~~ 151

(1) ~~"Official team activities" means all games, practices,~~ 152
~~exhibitions, scrimmages, team appearances, team photograph~~ 153
~~sessions, sports camps sponsored by the institution or college,~~ 154
~~and other team-organized activities, regardless of whether the~~ 155
~~activity takes place on or off campus, including individual~~ 156
~~photograph sessions and news media interviews.~~ 157

(2) ~~"Student" means an individual enrolled at a state~~ 158
~~institution of higher education or private college who~~ 159
~~participates in intercollegiate athletics.~~ 160

(B) ~~A state institution of higher education's or private~~ 161
~~college's contract with a ~~student~~student-athlete shall not~~ 162
~~prevent the ~~student~~student-athlete from using the ~~student's~~~~ 163
~~student-athlete's name, image, or likeness for a commercial~~ 164

purpose when the ~~student~~ student-athlete is not engaged in 165
official team activities. 166

~~(C)~~ (B) A ~~student~~ student-athlete shall not enter into a 167
contract providing compensation to the ~~student~~ student-athlete 168
for use of the ~~student's~~ student-athlete's name, image, or 169
likeness that requires the ~~student~~ student-athlete to display a 170
sponsor's product, or otherwise advertise for a sponsor, ~~during~~ 171
~~official team activities or any other time~~ if that requirement 172
is in conflict with a provision of a contract to which a state 173
institution of higher education or private college is a party. 174

~~(D)~~ (1) (C) (1) A ~~student~~ student-athlete who intends to 175
enter into a verbal or written contract providing compensation 176
to the ~~student~~ student-athlete for use of the ~~student's~~ student- 177
athlete's name, image, or likeness shall disclose the proposed 178
contract to an official of the state institution of higher 179
education or private college for review by the institution or 180
college. The institution or college shall designate an official 181
to whom the ~~student~~ student-athlete is to disclose the proposed 182
contract. 183

(2) If a state institution of higher education or private 184
college identifies a conflict between the proposed verbal or 185
written contract described in division ~~(D)~~ (1) ~~(C)~~ (1) of this 186
section and any existing provisions of a contract to which the 187
institution or college is a party, the institution or college 188
shall communicate to the ~~student~~ student-athlete the relevant 189
contract provision that is in conflict. The ~~student~~ student- 190
athlete shall not enter into the proposed contract, but the 191
~~student~~ student-athlete may negotiate a revision to the proposed 192
contract to avoid the conflict. The revised proposed contract is 193
subject to review by the institution or college to ensure 194

compliance with this chapter. 195

~~(E)~~ (3) Any contract, proposed contract, or related 196
documentation disclosed to a state institution of higher 197
education or private college under this section is confidential 198
and not a public record for purposes of section 149.43 of the 199
Revised Code. 200

(D) A state institution of higher education or private 201
college may establish reasonable policies or standards to 202
address a ~~student's~~ student-athlete's failure to provide the 203
disclosure required under ~~division (D)(1) of this section~~ or any 204
other failure to comply with the requirements of this chapter. 205

Sec. 3376.07. A state institution of higher education, 206
private college, athletic association, conference, or other 207
group or organization with authority over intercollegiate 208
athletics may prohibit a ~~student who participates in~~ 209
~~intercollegiate athletics~~ student-athlete from entering into a 210
contract providing compensation to the ~~student~~ student-athlete 211
for use of the ~~student's~~ student-athlete's name, image, or 212
likeness if under the contract the ~~student's~~ student-athlete's 213
name, image, or likeness is associated with any of the 214
following: 215

(A) Any company that manufactures, markets, or sells, or 216
brand that is associated with, a controlled substance, marihuana 217
product, medical marijuana product, alcoholic product, tobacco 218
product, electronic smoking device, vapor product, or product or 219
device that consists of or contains nicotine that can be 220
ingested into the body; 221

(B) Any medical marijuana cultivator, processor, 222
laboratory, or retail dispensary licensed under Chapter 3796. of 223

the Revised Code or under the laws of another state;	224
(C) Any business engaged in the sale, rental, or	225
exhibition for any form of consideration of adult entertainment	226
that is characterized by an emphasis on the exposure or display	227
of sexual activity;	228
(D) Any casino or entity that sponsors or promotes	229
gambling activities;	230
(E) Any other category of companies, brands, or types of	231
contracts that are similar to those described in divisions (A)	232
to (D) of this section that the institution or college	233
communicates to the student <u>student-athlete</u> before the student	234
<u>student-athlete</u> enrolls at the institution or college.	235
<u>Sec. 3376.09.</u> (A) <u>A state institution of higher education</u>	236
<u>or private college may do either of the following:</u>	237
<u>(1) Except as provided in division (B) of this section,</u>	238
<u>compensate a student-athlete for use of the student-athlete's</u>	239
<u>name, image, or likeness;</u>	240
<u>(2) Provide money, assets, resources, opportunities,</u>	241
<u>services, or other benefits to an institutional marketing</u>	242
<u>associate to incentivize it to facilitate opportunities for a</u>	243
<u>student-athlete to earn compensation for use of the student-</u>	244
<u>athlete's name, image, or likeness.</u>	245
<u>(B) No state institution of higher education or private</u>	246
<u>college shall use any fees paid to the institution or college by</u>	247
<u>or on behalf of students attending that institution or college</u>	248
<u>to compensate a student-athlete for use of the student-athlete's</u>	249
<u>name, image, or likeness.</u>	250
<u>Sec. 3376.10.</u> <u>Except as authorized by a state institution</u>	251

of higher education or private college, no student-athlete, to 252
further the student-athlete's opportunities to earn compensation 253
for use of the student-athlete's name, image, or likeness, shall 254
use any of the following that belong to the institution or 255
college: 256

(A) Facilities; 257

(B) Equipment; 258

(C) Apparel; 259

(D) Uniforms; 260

(E) Intellectual property, including logos, indicia, 261
products protected by copyright, and registered or unregistered 262
trademarks. 263

Sec. ~~3345.56~~ 3376.11. Notwithstanding any provision of the 264
Revised Code to the contrary, a ~~student~~-student-athlete 265
attending a state ~~university~~ as defined in section ~~3345.011~~ of 266
the Revised Code institution of higher education or private 267
college is not an employee of the ~~state university~~ institution 268
or college based upon either of the student's following: 269

(A) The student-athlete's participation in an athletic 270
program offered by the ~~state university~~ institution or college; 271

(B) The institution or college compensating the student- 272
athlete for use of the student-athlete's name, image, or 273
likeness. 274

Sec. 3376.12. (A) A student-athlete alleging that the 275
student-athlete has been injured because a state institution of 276
higher education, private college, athletic association, 277
conference, or other group or organization with authority over 278
intercollegiate athletics has violated this chapter may maintain 279

an action in any court of competent jurisdiction to seek 280
injunctive relief. 281

(B) A state institution of higher education, private 282
college, or institutional marketing associate alleging that an 283
athletic association, conference, or other group or organization 284
with authority over intercollegiate athletics has subjected the 285
institution, college, or associate to any actual or threatened 286
complaint, investigation, penalty, or other adverse action for 287
engaging in any conduct authorized under this chapter may 288
maintain an action in any court of competent jurisdiction to 289
seek damages, injunctive relief, reasonable attorney's fees, or 290
any other appropriate relief. 291

(C) No state institution of higher education, private 292
college, or institutional marketing associate is liable for any 293
damages that result from a student-athlete's inability to earn 294
compensation for use of the student-athlete's name, image, or 295
likeness. 296

(D) No employee of a state institution of higher 297
education, private college, or institutional marketing associate 298
is liable for any damages that result from a student-athlete's 299
inability to earn compensation for use of the student-athlete's 300
name, image, or likeness because of a decision or action that 301
routinely occurs in the course of intercollegiate athletics. 302

Sec. 3376.13. No student-athlete who is less than eighteen 303
years of age shall enter into a contract that provides the 304
student-athlete with compensation for use of the student- 305
athlete's name, image, or likeness unless the contract includes 306
the written consent of the student-athlete's parent, guardian, 307
or custodian for the student-athlete to enter into the contract. 308

Section 2. That existing sections 3345.56, 3376.01, 309
3376.02, 3376.03, 3376.04, 3376.06, and 3376.07 of the Revised 310
Code are hereby repealed. 311

Section 3. That section 3376.05 of the Revised Code is 312
hereby repealed. 313