

As Re-Referred to the Senate Finance Committee

136th General Assembly

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Sub. H. B. No. 184

Representatives Stewart, Mathews, T.

Cosponsors: Representatives Deeter, Gross, Williams, Barhorst, Bird, Brennan, Brent, Brewer, Brownlee, Click, Cockley, Creech, Dovilla, Fischer, Ghanbari, Glassburn, Grim, Hall, D., Hall, T., Hiner, Jarrells, John, LaRe, Lawson-Rowe, Lorenz, Mathews, A., Mohamed, Newman, Odioso, Peterson, Piccolantonio, Plummer, Robb Blasdel, Roemer, Rogers, Russo, Salvo, Sigrist, Somani, Tims, Upchurch, Willis, Young

Senator Manning

To amend sections 3376.01 and 4771.12 and to enact 1
sections 3376.14 and 4771.021 of the Revised 2
Code to prescribe limitations with respect to 3
certain contracts entered into with 4
intercollegiate athletes. 5

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

Section 1. That sections 3376.01 and 4771.12 be amended 6
and sections 3376.14 and 4771.021 of the Revised Code be enacted 7
to read as follows: 8

Sec. 3376.01. As used in this chapter: 9

(A) "Athlete agent" means an individual who holds a 10
current and valid certificate of registration issued under 11
section 4771.08 of the Revised Code or certificate of 12
convenience issued under section 4771.09 of the Revised Code. 13

(B) "Institutional marketing associate" means any third- 14

party entity that enters into a contract with, or otherwise acts 15
on behalf of, a state institution of higher education, private 16
college, or an institution's or college's intercollegiate 17
athletics department. "Institutional marketing associate" does 18
not include either of the following: 19

(1) A state institution of higher education, private 20
college, athletic association, conference, or other group or 21
organization with authority over intercollegiate athletics; 22

(2) A staff member, employee, officer, director, manager, 23
or owner of any of the entities described under division (B) (1) 24
of this section. 25

(C) "Official team activities" means all games, practices, 26
exhibitions, scrimmages, team appearances, team photograph 27
sessions, sports camps sponsored by a state institution of 28
higher education or private college, and other team-organized 29
activities, regardless of whether the activity takes place on or 30
off campus, including individual photograph sessions and news 31
media interviews. 32

(D) "State institution of higher education" has the same 33
meaning as in section 3345.011 of the Revised Code. 34

(E) "Student-athlete" means an individual who is eligible 35
to participate in, participates in, or has participated in 36
intercollegiate athletics for a state institution of higher 37
education or private college. "Student-athlete" does not include 38
an individual who participates in intramural athletics at a 39
state institution of higher education or private college or who 40
participates in professional athletics. 41

(F) "Third-party entity" means any individual or entity, 42
including an athlete agent, other than a state institution of 43

higher education, private college, athletic association, 44
conference, or other group or organization with authority over 45
intercollegiate athletics. 46

(G) "Private college" has the same meaning as in section 47
3365.01 of the Revised Code. 48

(H) "Personal services" means services performed by a 49
student-athlete to which both of the following apply: 50

(1) The services are nondelegable obligations for which 51
the student-athlete cannot substitute another individual to 52
fulfill the duties agreed upon by the student-athlete under the 53
contract, and the services must be rendered personally by that 54
student-athlete. 55

(2) The services involve skill-based or talent-based 56
performance by the student-athlete, and the contract is formed 57
due to the student-athlete's specific athletic ability, status 58
as a student-athlete, public persona, or brand recognition. 59

(I) "Name, image, or likeness" includes personal services. 60

Sec. 3376.14. (A) No person shall enter into a contract 61
with a student-athlete who participates in intercollegiate 62
athletics that provides compensation to the student-athlete for 63
use of the student-athlete's name, image, or likeness if the 64
contract does any of the following: 65

(1) Remains in effect beyond the date the student-athlete 66
is no longer eligible to participate in intercollegiate 67
athletics; 68

(2) Requires the student-athlete to provide as 69
consideration either of the following: 70

(a) Any compensation the student-athlete may earn after 71

the student-athlete is no longer eligible to participate in 72
intercollegiate athletics for use of the student-athlete's name, 73
image, or likeness; 74

(b) Rights associated with the use of the student- 75
athlete's name, image, or likeness after the student-athlete is 76
no longer eligible to participate in intercollegiate athletics. 77

(3) Requires any litigation, arbitration, or other dispute 78
resolution process arising from the contract to occur in another 79
state. 80

(B) A contract that provides a student-athlete with 81
compensation for use of the student-athlete's name, image, or 82
likeness shall require any litigation, arbitration, or other 83
dispute resolution process arising from the contract to take 84
place in Ohio and be governed by Ohio law. 85

(C) The parties to any contract that provides a student- 86
athlete with compensation for use of the student-athlete's name, 87
image, or likeness shall ensure that the contract complies with 88
this section. 89

(D) The parties to any contract involving an individual 90
who becomes a student-athlete by transferring to a state 91
institution of higher education or private college located in 92
this state from an educational institution located outside this 93
state shall ensure that any contract to which both of the 94
following apply complies with this section: 95

(1) The contract provides the individual with compensation 96
for use of the individual's name, image, or likeness. 97

(2) The contract is in effect on the date of the transfer 98
and is to continue in effect at the new state institution of 99
higher education or private college. 100

(E) A contract entered into in violation of this section 101
is void. 102

Sec. 4771.021. (A) As used in this section, "name, image, 103
or likeness" has the same meaning as in section 3376.01 of the 104
Revised Code. 105

(B) No athlete agent shall enter into an agent contract 106
with an athlete under which the athlete agent represents the 107
athlete in relation to contracts or legal matters regarding 108
opportunities to earn compensation for use of the athlete's 109
name, image, or likeness if the agent contract remains in effect 110
beyond the date the athlete is no longer eligible to participate 111
in intercollegiate athletics. 112

Sec. 4771.12. (A) Fees charged by an athlete agent for 113
services provided to an athlete may be negotiated between the 114
parties. 115

(B) (1) Except as provided in division (B) (2) of this 116
section, an athlete agent shall establish an interest-bearing 117
trust fund or similar account in a depository approved by the 118
Ohio athletic commission to be used for the deposit of all 119
revenues received on behalf of an athlete. An athlete agent 120
shall deposit any revenue received on behalf of an athlete in 121
the interest-bearing trust fund or account. The athlete agent 122
shall notify the commission of the address and location of the 123
trust fund or account and the depository in which it is located. 124

(2) An athlete agent who is an attorney licensed to 125
practice law in this state may deposit any revenue received on 126
behalf of an athlete in a trust account already maintained by 127
the agent attorney in a financial institution in this state for 128
the deposit of revenue received on behalf of clients. 129

(C) No athlete agent shall share fees with any person 130
other than an employee of the athlete agent. If an athlete agent 131
shares a fee with an employee, the athlete agent shall obtain 132
written consent from the athlete prior to entering a fee 133
agreement with the athlete. 134

(D) As used in divisions (D) (1) and (2) of this section, 135
"name, image, or likeness" has the same meaning as in section 136
3376.01 of the Revised Code. No athlete agent shall enter a fee 137
agreement that requires the athlete to provide as consideration 138
either of the following: 139

(1) Any compensation the athlete may earn after the 140
athlete is no longer eligible to participate in intercollegiate 141
athletics for use of the athlete's name, image, or likeness; 142

(2) Rights associated with the use of the athlete's name, 143
image, or likeness after the athlete is no longer eligible to 144
participate in intercollegiate athletics. 145

(E) No athlete agent shall enter fee agreements that are 146
prohibited under this chapter. 147

~~(D)~~ (F) If an athlete agent collects a fee or expense from 148
an athlete as consideration for obtaining employment for the 149
athlete, and the athlete agent fails to procure such employment, 150
the agent shall retain only the following portion of the fee or 151
expense: 152

(1) The cost of reasonable expenses incurred by the 153
athlete agent during the course of representing the athlete in 154
efforts to obtain employment for the athlete; 155

(2) A negotiated fee in connection with instances where 156
the athlete receives a bonus or some compensation for signing a 157
professional sports services contract. 158

~~(E)~~ (G) Nothing in this section shall be construed to 159
limit the authority of the Ohio supreme court to establish or 160
regulate fees for activities considered to be the practice of 161
law. 162

Section 2. That existing sections 3376.01 and 4771.12 of 163
the Revised Code are hereby repealed. 164

Section 3. This act applies to contracts and agreements 165
entered into on or after the effective date of this section. 166