

As Introduced

136th General Assembly

Regular Session

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H. B. No. 745

Representatives Fischer, Plummer

To enact sections 3314.0311, 3373.01, 3373.02, 1
3373.03, 3373.04, 3373.05, 3373.06, 3373.07, 2
3373.08, 3373.09, 3373.10, and 3373.11 of the 3
Revised Code to enact the Student-Athlete 4
Publicity Rights and Fair Compensation Act to 5
address name, image, and likeness compensation 6
for high school athletes. 7

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

Section 1. That sections 3314.0311, 3373.01, 3373.02, 8
3373.03, 3373.04, 3373.05, 3373.06, 3373.07, 3373.08, 3373.09, 9
3373.10, and 3373.11 of the Revised Code be enacted to read as 10
follows: 11

Sec. 3314.0311. Each community school established under 12
this chapter shall comply with Chapter 3373. of the Revised 13
Code. 14

Sec. 3373.01. As used in this chapter: 15

(A) "Athlete agent" means an individual who holds a 16
current and valid certificate of registration issued under 17
section 4771.08 of the Revised Code or certificate of 18
convenience issued under section 4771.09 of the Revised Code. 19

(B) "High school" means any of the following that offers 20

<u>any of grades nine through twelve:</u>	21
<u>(1) A school operated by a city, local, exempted village,</u>	22
<u>or joint vocational school district;</u>	23
<u>(2) A community school established under Chapter 3314. of</u>	24
<u>the Revised Code;</u>	25
<u>(3) A STEM school established under Chapter 3326. of the</u>	26
<u>Revised Code;</u>	27
<u>(4) A college-preparatory boarding school established</u>	28
<u>under Chapter 3328. of the Revised Code;</u>	29
<u>(5) A chartered nonpublic school;</u>	30
<u>(6) A nonchartered nonpublic school that is a member of an</u>	31
<u>organization that regulates interscholastic athletic conferences</u>	32
<u>or events.</u>	33
<u>(C) "Name, image, or likeness activity" means any lawful</u>	34
<u>activity in which a student-athlete's identity is used for</u>	35
<u>commercial or promotional purposes.</u>	36
<u>(D) "School governing authority" means all of the</u>	37
<u>following:</u>	38
<u>(1) A city, local, exempted village, or joint vocational</u>	39
<u>school district board of education;</u>	40
<u>(2) A STEM school governing body;</u>	41
<u>(3) A governing authority of a community school;</u>	42
<u>(4) A governing authority of a chartered nonpublic school;</u>	43
<u>(5) A governing authority of a nonchartered nonpublic</u>	44
<u>school.</u>	45
<u>(E) "Student-athlete" means an individual who participates</u>	46

in athletic competitions or events administered by an 47
organization that regulates interscholastic athletic conferences 48
or events and to whom either of the following apply: 49

(1) The student is enrolled in high school. 50

(2) The student is participating in interscholastic 51
athletics at a high school including a student participating 52
under sections 3313.536, 3313.537, 3313.5311, 3313.5312, and 53
3313.5313 of the Revised Code. 54

Sec. 3373.02. (A) Subject to division (B) of this section, 55
and except as provided in sections 3373.03, 3373.04, and 3373.07 56
of the Revised Code, a student-athlete may do both of the 57
following: 58

(1) Earn compensation from the use of the student- 59
athlete's name, image, or likeness; 60

(2) Engage in a name, image, or likeness activity. 61

(B) No student-athlete shall earn compensation from the 62
use of the student-athlete's name, image, or likeness unless all 63
of the following apply: 64

(1) The student-athlete enters into a written contract 65
governing that compensation. 66

(2) The contract terms align with the fair market value of 67
the student-athlete's name, image, or likeness. 68

(3) If the student-athlete is less than eighteen years of 69
age, the contract includes the written consent of the student- 70
athlete's parent or guardian. 71

Sec. 3373.03. No student-athlete shall enter into a 72
contract providing compensation to the student-athlete for use 73

<u>of the student-athlete's name, image, or likeness if any of the</u>	74
<u>following apply:</u>	75
<u>(A) A collective, booster club, foundation, high school,</u>	76
<u>school governing authority, or any agent, coach, administrator,</u>	77
<u>or other individual affiliated with the school is a party to the</u>	78
<u>contract.</u>	79
<u>(B) The contract provides compensation to the student-</u>	80
<u>athlete based on the student-athlete's specific athletic</u>	81
<u>performance or achievement.</u>	82
<u>(C) The contract is entered into as an inducement for the</u>	83
<u>student-athlete to attend a particular high school.</u>	84
<u>(D) The contract directly impacts any person other than</u>	85
<u>the student-athlete.</u>	86
<u>(E) The contract provides money, merchandise, services of</u>	87
<u>value, or any other benefit directly to the student-athlete's</u>	88
<u>high school or school sports team.</u>	89
<u>(F) The contract interferes with a student-athlete's</u>	90
<u>required academic instruction time.</u>	91
<u>(G) The contract conflicts with the core educational</u>	92
<u>mission or code of conduct of the student-athlete's high school.</u>	93
<u>(H) The contract requires a student-athlete to promote any</u>	94
<u>of the following products or services:</u>	95
<u>(1) An alcoholic product;</u>	96
<u>(2) A tobacco or nicotine product;</u>	97
<u>(3) A marihuana product, medical marijuana product, or</u>	98
<u>adult-use marijuana product;</u>	99
<u>(4) A controlled substance;</u>	100

<u>(5) A gambling or sports wagering product;</u>	101
<u>(6) An adult entertainment product or service;</u>	102
<u>(7) A firearm or weapon other than a firearm or weapon that is used for sporting or educational purposes;</u>	103 104
<u>(8) Any other product or service that is prohibited under state or federal law.</u>	105 106
Sec. 3373.04. <u>(A) Subject to division (B) of this section, a school governing authority or organization that regulates interscholastic athletic conferences or events may prohibit a student-athlete from entering into a contract providing compensation to the student-athlete for use of the student- athlete's name, image, or likeness if the contract directly conflicts with either of the following:</u>	107 108 109 110 111 112 113
<u>(1) The curriculum or public values of the school governing authority or organization;</u>	114 115
<u>(2) Any contract to which the school governing authority or organization is a party.</u>	116 117
<u>(B) No school governing authority or organization that regulates interscholastic athletic conferences or events shall prohibit a student-athlete from entering into a contract under this section unless the school governing authority or organization applies the prohibition uniformly and clearly publishes its policy regarding the prohibition.</u>	118 119 120 121 122 123
Sec. 3373.05. <u>(A) (1) If a student-athlete intends to enter into a contract providing compensation of more than five hundred dollars to the student-athlete for use of the student-athlete's name, image, or likeness, not later than seven days before entering into the proposed contract, the student-athlete shall</u>	124 125 126 127 128

disclose it to an administrator designated by the student- 129
athlete's school governing authority. The student-athlete also 130
shall disclose the proposed contract to the student-athlete's 131
parent or guardian, unless the student-athlete has been 132
emancipated or has reached eighteen years of age. 133

(2) Not later than five days after receiving a proposed 134
contract under division (A) (1) of this section, the 135
administrator shall review the proposed contract and determine 136
whether it potentially does either of the following: 137

(a) Conflicts with any contract to which the school 138
governing authority is a party or any policy adopted by the 139
school governing authority; 140

(b) Violates section 3373.03 of the Revised Code. 141

(3) If the administrator determines under division (A) (2) 142
of this section that a potential conflict or violation exists, 143
the administrator shall communicate to the student-athlete the 144
basis for the conflict or violation not later than five days 145
after receiving the proposed contract. The student-athlete shall 146
not enter into the proposed contract, but the student-athlete 147
may negotiate a revision to it to avoid the conflict or 148
violation. The revised proposed contract is subject to review by 149
the administrator. 150

(B) A school governing authority may adopt a policy that 151
requires a student-athlete who intends to enter into a contract 152
providing compensation of five hundred dollars or less for use 153
of the student-athlete's name, image, or likeness to disclose 154
the proposed contract in the manner described under division (A) 155
of this section. If the school governing authority adopts a 156
policy, the student-athlete and designated administrator shall 157

comply with that policy. 158

(C) No administrator designated by a school governing authority under this section shall unreasonably determine that a potential conflict or violation exists, or retaliate against a student-athlete, for purposes of division (A) (2) of this section, because the student-athlete engages in a name, image, or likeness activity. 159
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Sec. 3373.06. (A) No school governing authority or organization that regulates interscholastic athletic conferences or events shall do any of the following: 165
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(1) Prohibit a student-athlete from engaging in a name, image, or likeness activity; 168
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(2) Prohibit a student-athlete from fully participating in interscholastic athletics because the student-athlete engages in a name, image, or likeness activity or obtains professional representation from an athlete agent or attorney; 170
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(3) Take any adverse action with respect to any scholarship or financial aid a student-athlete may receive from the school because the student-athlete engages in a name, image, or likeness activity; 174
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(4) Charge additional fees for a student-athlete to participate in interscholastic athletics that exceed any fees charged to other student-athletes participating in interscholastic athletics because the student-athlete engages in a name, image, or likeness activity; 178
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(5) Require a student-athlete to engage in a name, image, or likeness activity or to endorse any company or cause. 183
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(B) No school governing authority shall condition a 185

student-athlete's school enrollment, grades, sports team 186
selection, or other benefit based on whether the student-athlete 187
engages in a name, image, or likeness activity. 188

Sec. 3373.07. (A) A school governing authority or 189
organization that regulates interscholastic athletic conferences 190
or events may establish a written policy regulating the time, 191
place, and manner of name, image, or likeness activities by 192
student-athletes to protect academic or school sports team 193
obligations. 194

(B) A school governing authority may do either of the 195
following: 196

(1) Prohibit the use of any uniform, logo, or facility 197
belonging to the school governing authority by a student-athlete 198
when engaging in a name, image, or likeness activity; 199

(2) Authorize a student-athlete to use the property 200
described under division (B) (1) of this section when engaging in 201
a name, image, or likeness activity if, before engaging in the 202
activity, the student-athlete obtains the written consent from 203
the school governing authority. 204

(C) An organization that regulates interscholastic 205
athletic conferences or events may do either of the following: 206

(1) Prohibit the use of any uniform, logo, or facility 207
belonging to the organization by a student-athlete when engaging 208
in a name, image, or likeness activity; 209

(2) Authorize a student-athlete to use the property 210
described under division (C) (1) of this section when engaging in 211
a name, image, or likeness activity if, before engaging in the 212
activity, the student-athlete obtains the written consent from 213
the organization. 214

Sec. 3373.08. (A) If a student-athlete transfers from one 215
high school to another high school to participate in 216
interscholastic athletics at the other school and the reason for 217
the transfer relates to any contract providing compensation to 218
the student-athlete for use of the student-athlete's name, 219
image, or likeness, there is a rebuttable presumption that the 220
student-athlete has violated division (C) of section 3373.03 of 221
the Revised Code. 222

(B) If a student-athlete is presumed to have violated 223
division (C) of section 3373.03 of the Revised Code under this 224
section, the organization that regulates interscholastic 225
athletic conferences or events may suspend the student-athlete 226
from participating in interscholastic athletics during an 227
investigation regarding the alleged violation. 228

(C) If, after investigating whether a student-athlete has 229
violated division (C) of section 3373.03 of the Revised Code, 230
the organization that regulates interscholastic athletic 231
conferences or events determines a student-athlete has violated 232
that division, the organization shall not permit the student- 233
athlete to participate in interscholastic athletics after the 234
first fifty per cent of the maximum allowable varsity regular 235
season contests have been completed or in any post-season 236
contests. 237

(D) Each organization that regulates interscholastic 238
athletic conferences or events shall adopt rules or bylaws to 239
implement this section. 240

Sec. 3373.09. Notwithstanding any provision of the Revised 241
Code to the contrary, a student-athlete is not an employee or 242
independent contractor of a school governing authority based on 243
the student-athlete doing any of the following: 244

<u>(A) Participating in an athletic program offered by the</u>	245
<u>school governing authority;</u>	246
<u>(B) Earning compensation for use of the student-athlete's</u>	247
<u>name, image, or likeness;</u>	248
<u>(C) Engaging in a name, image, or likeness activity.</u>	249
Sec. 3373.10. <u>(A) Each organization that regulates</u>	250
<u>interscholastic athletic conferences or events shall adopt rules</u>	251
<u>or bylaws establishing penalties for any violation of this</u>	252
<u>chapter by a student-athlete or school governing authority. The</u>	253
<u>organization shall include in the rules or bylaws both of the</u>	254
<u>following:</u>	255
<u>(1) A procedure to investigate any allegation that a</u>	256
<u>student-athlete or school governing authority has violated this</u>	257
<u>chapter and to make a determination regarding the allegation;</u>	258
<u>(2) A procedure for a student-athlete or school governing</u>	259
<u>authority to appeal an adverse determination to the</u>	260
<u>organization.</u>	261
<u>(B) If a student-athlete or school governing authority is</u>	262
<u>alleged to have violated this chapter, the organization that</u>	263
<u>regulates interscholastic athletic conferences or events may</u>	264
<u>suspend the student-athlete or school governing authority from</u>	265
<u>participating in interscholastic athletics during an</u>	266
<u>investigation of the alleged violation.</u>	267
Sec. 3373.11. <u>(A) A student-athlete alleging that the</u>	268
<u>student-athlete has been injured because a school governing</u>	269
<u>authority or organization that regulates interscholastic</u>	270
<u>athletic conferences or events has violated this chapter may</u>	271
<u>maintain an action in any court of competent jurisdiction to</u>	272
<u>seek injunctive relief or damages.</u>	273

(B) If the attorney general, based on the attorney 274
general's own initiative or on a complaint, has reasonable cause 275
to believe that a school governing authority or organization 276
that regulates interscholastic athletic conferences or events 277
has violated or is violating this chapter, the attorney general 278
may investigate whether a violation has occurred or is 279
occurring. 280

If the attorney general has reasonable cause to believe a 281
violation of this chapter has occurred or is occurring, the 282
attorney general may maintain a civil action against a school 283
governing authority or organization in any court of competent 284
jurisdiction to seek injunctive relief or damages. 285

(C) No school governing authority, organization that 286
regulates interscholastic athletic conferences or events, or 287
official thereof is liable for any damages that result from a 288
violation of this chapter if the school governing authority, 289
organization, or official acted in good faith to comply with 290
this chapter. 291

Section 2. This act shall be known as the Student-Athlete 292
Publicity Rights and Fair Compensation Act. 293