As Passed by the House

134th General Assembly

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Am. Sub. S. B. No. 187

Senator Antani

Cosponsors: Senators Antonio, Brenner, Cirino, Gavarone, Hackett, Hoagland, Hottinger, Huffman, S., Johnson, Kunze, Manning, McColley, O'Brien, Peterson, Schuring, Yuko Representatives John, Callender, Stewart, Abrams, Baldridge, Bird, Carruthers, Click, Cross, Cutrona, Dean, Edwards, Ferguson, Fowler Arthur, Ghanbari, Gross, Hall, Johnson, Jones, Jordan, Loychik, McClain, Merrin, Powell, Richardson, Riedel, Schmidt, Stein, Swearingen, Wiggam, Wilkin, Young, B., Zeltwanger

A BILL

То	enact sections 3313.5317, 3345.561, 3376.01,	1
	3376.02, 3376.03, 3376.04, 3376.05, 3376.06,	2
	3376.07, and 3376.08 of the Revised Code to	3
	allow intercollegiate athletes to earn	4
	compensation from their name, image, or	5
	likeness, to enact the Save Women's Sports Act	6
	to require schools, state institutions of higher	7
	education, and private colleges to designate	8
	separate single-sex teams and sports for each	9
	sex.	10

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

Section 1. That sections 3313.5317, 3345.561, 3376.01,	11
3376.02, 3376.03, 3376.04, 3376.05, 3376.06, 3376.07, and	12
3376.08 of the Revised Code be enacted to read as follows:	13
Sec. 3313.5317. (A) Each school that participates in	14
athletic competitions or events administered by an organization	15

that regulates interscholastic athletic conferences or events	16
shall designate interscholastic athletic teams based on the sex	17
of the participants as follows:	18
(1) Separate teams for participants of the female sex	19
within female sports divisions;	20
(2) Separate teams for participants of the male sex within	21
<pre>male sports divisions;</pre>	22
(3) If applicable, co-ed teams for participants of the	23
female and male sexes within co-ed sports divisions.	24
(B) No school, interscholastic conference, or organization	25
that regulates interscholastic athletics shall knowingly permit	26
individuals of the male sex to participate on athletic teams or	27
in athletic competitions designated only for participants of the	28
<pre>female sex.</pre>	29
(C) Nothing in this section shall be construed to restrict	30
the eligibility of any student to participate on any athletic	31
teams or in athletic competitions that are designated as male or	32
<u>co-ed.</u>	33
(D) No agency or political subdivision of the state and no	34
accrediting organization or athletic association that operates	35
or has business activities in this state shall process a	36
complaint, begin an investigation, or take any other adverse	37
action against a school or school district for maintaining	38
separate single-sex interscholastic athletic teams or sports.	39
(E)(1) Any participant who is deprived of an athletic	40
opportunity or suffers a direct or indirect harm as a result of	41
a violation of this section has a private cause of action for	42
injunctive relief, damages, and any other relief available	43
against the school, school district, interscholastic conference,	44

or organization that regulates interscholastic athletics.	45
(2) Any participant who is subject to retaliation or other	46
adverse action by a school, school district, interscholastic	47
conference, or organization that regulates interscholastic	48
athletics as a result of reporting a violation of this section	49
has a private cause of action for injunctive relief, damages,	50
and any other relief available against the entity that takes the	51
retaliatory or other adverse action.	52
(3) Any school or school district that suffers any direct	53
or indirect harm as a result of a violation of division (D) of	54
this section has a private cause of action for injunctive	55
relief, damages, and any other relief available against the	56
agency, political subdivision, accrediting organization, or	57
athletic association that violates that division.	58
(F) Any civil action brought as a result of a violation of	59
this section shall be initiated within two years after the date	60
on which the violation occurs. Persons or organizations who	61
prevail on a claim brought pursuant to this section shall be	62
entitled to monetary damages, including for any psychological,	63
emotional, or physical harm suffered, reasonable attorney's fees	64
and costs, and any other appropriate relief.	65
Sec. 3345.561. (A) As used in this section:	66
(1) "Private college" means a nonprofit institution that	67
holds a certificate of authorization issued under section	68
1713.02 of the Revised Code;	69
(2) "State institution of higher education" has the same	70
meaning as in section 3345.011 of the Revised Code.	71
(B) Each state institution of higher education or private	72
college that is a member of the national collegiate athletics	73

association, the national association of intercollegiate	74
athletics, or the national junior college athletic association	75
shall designate intercollegiate athletic teams and sports based	76
on the sex of the participants as follows:	77
(1) Separate teams for participants of the female sex	78
within female sports divisions;	79
(2) Separate teams for participants of the male sex within	80
<pre>male sports divisions;</pre>	81
(3) If applicable, co-ed teams for participants of the	82
female and male sexes within co-ed sports divisions.	83
(C) No state institution or private college to which	84
division (B) of this section applies shall knowingly allow	85
individuals of the male sex to participate on athletic teams or	86
in athletic competitions designated for only participants of the	87
<pre>female sex.</pre>	88
(D) Nothing in this section shall be construed to restrict	89
the eligibility of any student to participate on any athletic	90
teams or in athletic competitions that are designated as male or	91
<pre>co-ed.</pre>	92
(E) No agency or political subdivision of the state and no	93
accrediting organization or athletic association that operates	94
or has business activities in this state shall process a	95
complaint, begin an investigation, or take any other adverse	96
action against a state institution of higher education or	97
private college for maintaining separate single-sex	98
intercollegiate athletic teams or sports for participants of the	99
<pre>female sex.</pre>	100
(F)(1) Any participant who is deprived of an athletic	101
opportunity or suffers a direct or indirect harm as a result of	102

a violation of this section has a private cause of action for	103
injunctive relief, damages, and any other relief available	104
against the state institution or the private college.	105
(2) Any participant who is subject to retaliation or other	106
adverse action by a state institution, private college, or	107
athletic association as a result of reporting a violation of	108
this section has a private cause of action for injunctive	109
relief, damages, and any other relief available against the	110
entity that takes the retaliatory or other adverse action.	111
(3) Any state institution or private college that suffers	112
any direct or indirect harm as a result of a violation of	113
division (E) of this section has a private cause of action for	114
injunctive relief, damages, and any other relief available	115
against the agency, political subdivision, accrediting	116
organization, or athletic association that violates that	117
division.	118
(G) Any civil action brought as a result of a violation of	119
this section shall be initiated within two years after the date	120
on which the violation occurs. Persons or organizations who	121
prevail on a claim brought pursuant to this section shall be	122
entitled to monetary damages, including for any psychological,	123
emotional, or physical harm suffered, reasonable attorney's fees	124
and costs, and any other appropriate relief.	125
Sec. 3376.01. As used in this chapter:	126
(A) "State institution of higher education" has the same	127
meaning as in section 3345.011 of the Revised Code.	128
(B) "Private college" has the same meaning as in section	129
3365.01 of the Revised Code.	130
Sec. 3376.02. No state institution of higher education or	1 3 1

private college shall uphold any rule, requirement, standard, or	132
other limitation that prevents a student of that institution or	133
college from fully participating in intercollegiate athletics	134
because the student earns compensation as a result of the use of	135
the student's name, image, or likeness. Earning compensation	136
from the use of a student's name, image, or likeness shall not	137
affect the student's scholarship eligibility or renewal.	138
Sec. 3376.03. An athletic association, conference, or	139
other group or organization with authority over intercollegiate	140
athletics, including the national collegiate athletic	141
association or its successor organization, shall not do either	142
of the following:	143
(A) Prevent a student of a state institution of higher	144
education or private college from fully participating in	145
intercollegiate athletics because the student earns compensation	146
as a result of the use of the student's name, image, or	147
<u>likeness;</u>	148
(B) Prevent a state institution of higher education or	149
private college from fully participating in intercollegiate	150
athletics because a student of that institution or college	151
participating in intercollegiate athletics does either of the	152
<pre>following:</pre>	153
(1) Uses the student's name, image, or likeness;	154
(2) Obtains professional representation in relation to	155
contracts or legal matters regarding opportunities to earn	156
compensation for use of the student's name, image, or likeness.	157
Sec. 3376.04. No state institution of higher education,	158
private college, athletic association, conference, or other	159
group or organization with authority over intercollegiate	160

athletics shall do any of the following:	161
(A) Provide a prospective student who intends to	162
participate in intercollegiate athletics with compensation in	163
relation to the prospective student's name, image, or likeness;	164
(B) Prevent a student who resides in this state and	165
participates in intercollegiate athletics from obtaining	166
professional representation in relation to contracts or legal	167
matters regarding opportunities to be compensated for use of the	168
<pre>student's name, image, or likeness;</pre>	169
(C) Interfere with or prevent a student from fully	170
participating in intercollegiate athletics because the student	171
obtains professional representation in relation to contracts or	172
legal matters regarding opportunities to earn compensation for	173
use of the student's name, image, or likeness.	174
Sec. 3376.05. A scholarship from a state institution of	175
higher education or private college at which a student is	176
enrolled is not compensation for use of the student's name,	177
image, or likeness for purposes of this chapter. No state	178
institution of higher education or private college shall revoke	179
or reduce a scholarship as a result of a student earning	180
compensation for use of the student's name, image, or likeness	181
if the student earns that compensation in accordance with this	182
<pre>chapter.</pre>	183
Sec. 3376.06. (A) As used in this section:	184
(1) "Official team activities" means all games, practices,	185
exhibitions, scrimmages, team appearances, team photograph	186
sessions, sports camps sponsored by the institution or college,	187
and other team-organized activities, regardless of whether the	188
activity takes place on or off campus, including individual	189

photograph sessions and news media interviews.	190
(2) "Student" means an individual enrolled at a state	191
institution of higher education or private college who	192
participates in intercollegiate athletics.	193
(B) A state institution of higher education's or private	194
college's contract with a student shall not prevent the student	195
from using the student's name, image, or likeness for a	196
commercial purpose when the student is not engaged in official	197
team activities.	198
(C) A student shall not enter into a contract providing	199
compensation to the student for use of the student's name,	200
image, or likeness that requires the student to display a	201
sponsor's product, or otherwise advertise for a sponsor, during	202
official team activities or any other time if that requirement	203
is in conflict with a provision of a contract to which a state	204
institution of higher education or private college is a party.	205
(D)(1) A student who intends to enter into a verbal or	206
written contract providing compensation to the student for use	207
of the student's name, image, or likeness shall disclose the	208
proposed contract to an official of the state institution of	209
higher education or private college for review by the	210
institution or college. The institution or college shall	211
designate an official to whom the student is to disclose the	212
proposed contract.	213
(2) If a state institution of higher education or private	214
college identifies a conflict between the proposed verbal or	215
written contract described in division (D)(1) of this section	216
and any existing provisions of a contract to which the	217
institution or college is a party, the institution or college	218

shall communicate to the student the relevant contract provision	219
that is in conflict. The student shall not enter into the	220
proposed contract, but the student may negotiate a revision to	221
the proposed contract to avoid the conflict. The revised	222
proposed contract is subject to review by the institution or	223
college to ensure compliance with this chapter.	224
(E) A state institution of higher education or private	225
college may establish reasonable policies or standards to	226
address a student's failure to provide the disclosure required	227
under division (D)(1) of this section or any other failure to	228
comply with the requirements of this chapter.	229
Sec. 3376.07. A state institution of higher education,	230
private college, athletic association, conference, or other	231
group or organization with authority over intercollegiate	232
athletics may prohibit a student who participates in	233
intercollegiate athletics from entering into a contract	234
providing compensation to the student for use of the student's	235
name, image, or likeness if under the contract the student's	236
name, image, or likeness is associated with any of the	237
<pre>following:</pre>	238
(A) Any company that manufactures, markets, or sells, or	239
brand that is associated with, a controlled substance, marihuana	240
product, medical marijuana product, alcoholic product, tobacco	241
product, electronic smoking device, vapor product, or product or	242
device that consists of or contains nicotine that can be	243
<pre>ingested into the body;</pre>	244
(B) Any medical marijuana cultivator, processor,	245
laboratory, or retail dispensary licensed under Chapter 3796. of	246
the Revised Code or under the laws of another state;	247

(C) Any business engaged in the sale, rental, or	248
exhibition for any form of consideration of adult entertainment	249
that is characterized by an emphasis on the exposure or display	250
of sexual activity;	251
(D) Any casino or entity that sponsors or promotes	252
<pre>gambling activities;</pre>	253
(E) Any other category of companies, brands, or types of	254
contracts that are similar to those described in divisions (A)	255
to (D) of this section that the institution or college	256
communicates to the student before the student enrolls at the	257
institution or college.	258
Sec. 3376.08. Nothing in this chapter does any of the	259
<pre>following:</pre>	260
(A) Requires a state institution of higher education,	261
private college, athletic association, conference, or other	262
group or organization with authority over intercollegiate	263
athletics to identify, create, facilitate, negotiate, or	264
otherwise enable opportunities for a student to earn	265
<pre>compensation for use of the student's name, image, or likeness;</pre>	266
(B) Establishes or grants to a student any right to use	267
the name, trademarks, services marks, logos, symbols, or any	268
other intellectual property, regardless of whether the	269
intellectual property is registered with the appropriate	270
authority, that belong to a state institution of higher	271
education, private college, athletic association, conference, or	272
other group or organization with authority over intercollegiate	273
athletics, to further the student's opportunities to earn	274
<pre>compensation for use of the student's name, image, or likeness;</pre>	275
(C) Limits the rights of a state institution of higher	276

education or private college to establish and enforce any of the	277
<pre>following:</pre>	278
(1) Academic standards, requirements, regulations, or	279
<pre>obligations for its students;</pre>	280
(2) Team rules of conduct or other rules of conduct;	281
(3) Standards or policies regarding the governance or	282
operation of or participation in intercollegiate varsity	283
athletics;	284
(4) Disciplinary rules and standards generally applicable	285
to all students of the institution or college.	286
Section 2. Section 1 of this act takes effect July 1,	287
2021.	288
Section 3. Sections 3313.5317 and 3345.561 of the Revised	289
Code, as enacted by this act, shall be known as the Save Women's	290
Sports Act	291