

2021 Regular Session

SENATE BILL NO. 60

BY SENATORS CONNICK, BOUDREAUX, BOUIE, CATHEY, CORTEZ, FIELDS,
FOIL, HARRIS, LUNEAU, MCMATH, ROBERT MILLS, MIZELL,
PETERSON, POPE, SMITH, TARVER, WARD AND WHITE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

AMUSEMENTS/SPORTS. Provides relative to the compensation of intercollegiate athletes for the use of their name, image, or likeness. (gov sig)

1 AN ACT

2 To enact Chapter 30 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised

3 of R.S. 17:3701 through 3703, relative to intercollegiate athletics; to provide relative

4 to the compensation and rights of intercollegiate athletes; to provide with respect to

5 professional representation of intercollegiate athletes; to provide for the

6 responsibilities of postsecondary education institutions with respect to intercollegiate

7 athletes' compensation; to provide for effectiveness; and to provide for related

8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 30 of Title 17 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 17:3701 through 3703 is hereby enacted to read as follows:

12 **CHAPTER 30. INTERCOLLEGIATE ATHLETICS**

13 **§3701. Legislative intent**

14 **The legislature finds that intercollegiate athletics provide intercollegiate**

15 **athletes with significant educational opportunities. However, participation in**

16 **intercollegiate athletics should not infringe upon an intercollegiate athlete's**

17 **ability to earn compensation for the athlete's name, image, or likeness. An**

1 intercollegiate athlete must have an equal opportunity to control and profit
2 from the commercial use of the athlete's name, image, or likeness, and be
3 protected from unauthorized appropriation and commercial exploitation of the
4 athlete's right to publicity, including the athlete's name, image, or likeness.

5 §3702. Definitions

6 As used in this Chapter, the following terms and phrases shall have the
7 following meaning, unless the context clearly indicates otherwise:

8 (1) "Athletic booster" means a person or entity that has participated in
9 or has been a member of an organization promoting a postsecondary education
10 institution's athletic program.

11 (2) "Athletic program" means an intercollegiate athletic program at a
12 postsecondary education institution.

13 (3) "Intercollegiate athlete" means a student enrolled in a postsecondary
14 education institution who participates in an athletic program.

15 (4) "Postsecondary education institution" means a Louisiana public
16 postsecondary education institution or nonpublic postsecondary institution that
17 receives or disburses any form of state student financial assistance, including
18 scholarships and grants.

19 §3703. Intercollegiate athlete's compensation and rights; responsibilities of
20 postsecondary education institutions

21 A.(1) An intercollegiate athlete at a postsecondary education institution
22 may earn compensation for the use of the athlete's name, image, or likeness.
23 Compensation must be commensurate with the market value of the authorized
24 use of the athlete's name, image, or likeness.

25 (2) To preserve the integrity, quality, character, and amateur nature of
26 intercollegiate athletics and to maintain a clear separation between amateur
27 intercollegiate athletics and professional sports, compensation shall not be
28 provided in exchange for athletic performance or attendance at a particular
29 postsecondary institution and shall only be provided by a third party

1 unaffiliated with the postsecondary education institution in which the
2 intercollegiate athlete is enrolled.

3 B. A postsecondary education institution shall not adopt or maintain a
4 contract, rule, regulation, standard, or other requirement that prevents or
5 unduly restricts an intercollegiate athlete from earning compensation for the
6 use of the athlete's name, image, or likeness. Earning compensation shall not
7 affect the intercollegiate athlete's grant-in-aid or athletic eligibility.

8 C. A postsecondary education institution, or an officer or employee of a
9 postsecondary education institution, shall not compensate or cause
10 compensation to be directed to a current or prospective intercollegiate athlete
11 for the athlete's name, image, or likeness.

12 D. A postsecondary education institution shall not use an athletic booster
13 to, nor shall an athletic booster, directly or indirectly, create or facilitate
14 compensation opportunities for the use of an intercollegiate athlete's name,
15 image, or likeness as a recruiting inducement or as a means of paying for
16 athletics participation.

17 E.(1) A postsecondary education institution may prohibit an
18 intercollegiate athlete from using the athlete's name, image, or likeness for
19 compensation if the proposed use of the athlete's name, image, or likeness
20 conflicts with either of the following:

21 (a) Existing institutional sponsorship agreements or contracts.

22 (b) Institutional values as defined by the postsecondary education
23 institution.

24 (2) An intercollegiate athlete shall not earn compensation for the use of
25 the athlete's name, image, or likeness for the endorsement of tobacco, alcohol,
26 illegal substances or activities, banned athletic substances, or any form of
27 gambling including sports wagering.

28 (3) An intercollegiate athlete shall not use a postsecondary education
29 institution's facilities, uniforms, registered trademarks, products protected by

1 copyright, or official logos, marks, colors, or other indicia in connection with the
2 use of the athlete's name, image, or likeness without the express permission of
3 the postsecondary education institution. In granting this permission, a
4 postsecondary education institution may require the third party entity engaging
5 the athlete for a name, image, or likeness activity to follow the protocols
6 established by the postsecondary education institution, including licensing
7 protocols.

8 F.(1) A postsecondary education institution shall not prevent or unduly
9 restrict an intercollegiate athlete from obtaining professional representation by
10 an athlete agent or an attorney engaged for the purpose of securing
11 compensation for the use of the athlete's name, image, or likeness.

12 (2) Professional representation obtained by an intercollegiate athlete
13 shall be from persons registered with or licensed for such activity by the state
14 as follows:

15 (a)(i) Representation provided by an athlete agent shall be by persons
16 registered with the state in accordance with, and in compliance with, the
17 provisions of Chapter 7 of Title 4 of the Louisiana Revised Statutes of 1950.
18 However, the notification provisions of R.S. 4:424(D)(3) shall not apply to an
19 athlete agent who contacts an intercollegiate athlete for the sole purpose of
20 representing the athlete in matters pertaining to the use of the athlete's name,
21 image, or likeness.

22 (ii) An athlete agent representing an intercollegiate athlete shall comply
23 with the federal Sports Agent Responsibility and Trust Act, 15 U.S.C.
24 7801-7807, in his relationship with the intercollegiate athlete.

25 (b) An attorney representing an intercollegiate athlete shall be duly
26 licensed to practice law.

27 G. A grant-in-aid, including cost of attendance, awarded to an
28 intercollegiate athlete by a postsecondary education institution is not
29 compensation for the purposes of this Chapter and shall not be revoked or

1 reduced as a result of an intercollegiate athlete earning compensation or
2 obtaining professional or legal representation pursuant to this Chapter.

3 H. A contract for compensation for the use of the name, image, or
4 likeness of an intercollegiate athlete under eighteen years of age shall be
5 executed on the athlete's behalf by the athlete's parent or legal guardian.

6 I. An intercollegiate athlete's contract for compensation for the use of the
7 athlete's name, image, or likeness shall not violate the provisions of this
8 Chapter.

9 J.(1) An intercollegiate athlete shall not enter into a contract for
10 compensation for the use of the athlete's name, image, or likeness if a term of
11 the contract conflicts with a term of the intercollegiate athlete's athletic
12 program's team contract.

13 (2) A postsecondary education institution asserting a conflict under this
14 Subsection shall disclose each relevant contract term that conflicts with the
15 team contract to the intercollegiate athlete or the athlete's representative.

16 K. An intercollegiate athlete who enters into a contract for compensation
17 for the use of the athlete's name, image, or likeness shall disclose the contract
18 to the postsecondary education institution in which the athlete is enrolled, in the
19 manner designated by the institution.

20 L. The duration of a contract for representation of an intercollegiate
21 athlete or compensation for the use of an intercollegiate athlete's name, image,
22 or likeness shall not extend beyond his participation in an athletic program at
23 a postsecondary education institution.

24 M.(1) A postsecondary education institution shall conduct a financial
25 literacy and life skills workshop for a minimum of five hours at the beginning
26 of an intercollegiate athlete's first and third academic years.

27 (2)(a)The workshop shall, at a minimum, include information concerning
28 financial aid, debt management, and a recommended budget for full and partial
29 grant-in-aid intercollegiate athletes based on the cost of attendance for the

1 current academic year. The workshop shall also include information on time
 2 management skills necessary for success as an intercollegiate athlete and
 3 available academic resources.

4 (b) The workshop shall not include any marketing, advertising, referral,
 5 or solicitation by providers of financial products or services.

6 N.(1) Each postsecondary education management board shall adopt
 7 policies to implement the provisions of this Chapter.

8 (2) No postsecondary education institution shall implement the
 9 provisions of this Chapter until such time as the appropriate management
 10 board adopts the required policies. Each management board has discretion as
 11 to when it adopts policies to implement the provisions of this Chapter.

12 Section 2. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jeanne C. Johnston.

DIGEST

SB 60 Reengrossed

2021 Regular Session

Connick

Proposed law provides with respect to compensation for the name, image, or likeness of intercollegiate athletes as follows:

- (1) Allows an intercollegiate athlete enrolled in a public postsecondary education institution or a nonpublic postsecondary institution that receives or disburses any form of state student financial assistance to earn compensation for the use of the athlete's name, image, or likeness.
- (2) Compensation earned by an intercollegiate athlete must be commensurate with the market value of the authorized use of the athlete's name, image, or likeness.
- (3) Compensation may not be provided in exchange for athletic performance or attendance at a postsecondary education institution and shall only be provided by a third party unaffiliated with the postsecondary institution in which the athlete is enrolled.
- (4) Prohibits a postsecondary education institution from adopting or maintaining a contract, rule, regulation, standard, or other requirement that prevents or unduly restricts an intercollegiate athlete from earning compensation for the use of the

- athlete's name, image, or likeness.
- (5) Earning compensation shall not affect the intercollegiate athlete's grant-in-aid or athletic eligibility.
 - (6) Prohibits a postsecondary education institution, or an officer, director, or employee of a postsecondary education institution, from providing compensation or directing compensation to a current or prospective intercollegiate athlete.
 - (7) Prohibits a postsecondary education institution from using an athletic booster to, and prohibits an athletic booster from, directly or indirectly, creating or facilitating compensation opportunities for the use of an intercollegiate athlete's name, image, or likeness as a recruiting inducement or as a means of paying for athletics participation.
 - (8) Allows a postsecondary education institution to prohibit an intercollegiate athlete from using the athlete's name, image, or likeness for compensation if the proposed use of the athlete's name, image, or likeness conflicts with existing institutional sponsorship agreements or contracts or institutional values as defined by the postsecondary education institution.
 - (9) Prohibits an intercollegiate athlete from earning compensation for the use of the athlete's name, image, or likeness for the endorsement of tobacco, alcohol, illegal substances or activities, banned athletic substances, or any form of gambling including sports wagering.
 - (10) Prohibits an intercollegiate athlete from using a postsecondary education institution's facilities, uniforms, registered trademarks, products protected by copyright, or official logos, marks, colors, or other indicia without the express permission of the postsecondary education institution. Allows a postsecondary education institution to require a third party entity engaging the athlete for a name, image, or likeness activity to follow the protocols established by the postsecondary education institution, including licensing protocols.
 - (11) Prohibits a postsecondary education institution from preventing or unduly restricting an intercollegiate athlete from obtaining professional representation.
 - (12) Professional representation obtained by an intercollegiate athlete must be from a person registered with or licensed by the state in accordance with applicable law. An athlete agent representing an intercollegiate athlete must be registered with the state and comply with applicable state and federal law. An attorney representing an intercollegiate athlete must be licensed to practice law.
 - (13) A grant-in-aid, including cost of attendance, awarded to an intercollegiate athlete by a postsecondary education institution is not compensation and shall not be revoked or reduced as a result of an intercollegiate athlete earning compensation or obtaining professional or legal representation.
 - (14) A contract for compensation for the use of the name, image, or likeness of an intercollegiate athlete under 18 years of age shall be executed on the athlete's behalf by his parent or legal guardian.
 - (15) Prohibits an intercollegiate athlete from entering into a contract for compensation for the use of the athlete's name, image, or likeness that conflicts with a term of the athlete's athletic program's team contract.
 - (16) An intercollegiate athlete must disclose any contract entered into for compensation for the athlete's name, image, or likeness to the postsecondary education institution

in which the athlete is enrolled.

- (17) The duration of a contract for representation of an intercollegiate athlete or compensation for the use of an athlete's name, image, or likeness shall not extend beyond the athlete's participation in an athletic program at a postsecondary institution.
- (18) Requires postsecondary education institutions to conduct a financial literacy and life skills workshop at the beginning of an intercollegiate athlete's first and third academic years. The workshops must include information on time management skills and academic resources and shall not include any marketing, advertising, referral, or solicitation by providers of financial products or services.
- (19) Requires postsecondary education management boards to adopt policies to implement the provisions of proposed law and grants each management board discretion as to when it adopts its policies. Prohibits postsecondary institutions from implementing proposed law until such time as the appropriate management board adopts the required polices.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 17:3701-3703)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Add definition of "athletic booster".
2. Allow a postsecondary institution to prohibit an athlete from using his or her name, image, or likeness for compensation if the activity conflicts with the institution's existing sponsorship agreements or contracts or moral values.
3. Prohibit an athlete from earning compensation for endorsing tobacco, alcohol, illegal or banned substances, or gambling activities, including sports wagering.
4. Prohibit an athlete from using a postsecondary institution's facilities, uniforms, trademarks, copyrighted materials, or official logos, marks, colors, etc. without permission from the institution.
5. Allow a postsecondary institution to require a third party entity engaging an athlete for a name, image, or likeness activity to follow the institution's protocols, including licensing protocols.
6. Exempt athlete agents representing intercollegiate athletes in matters pertaining to the use of the athlete's name, image, or likeness from certain notification requirements.
7. Remove requirement that an attorney representing an intercollegiate athlete be licensed to practice law in Louisiana.
8. Make legislation effective upon signature of the governor.

Senate Floor Amendments to engrossed bill

1. Prohibits postsecondary institutions from implementing proposed law until the appropriate management board adopts implementation policies, and grants each governing board discretion as to when it adopts its policies.