

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/HCS/House Bill No. 417, Page 10, Section 160.2725, Line 14,

2 by inserting after all of said line the following:

3 "173.280. 1. As used in this section, the following  
4 terms mean:

5 (1) "Institutional marketing associate", any third  
6 party entity that enters into an agreement with a  
7 postsecondary educational institution or its intercollegiate  
8 athletics or sports program to market and/or promote the  
9 postsecondary educational institution or its intercollegiate  
10 athletics or sports program, or to otherwise act on behalf  
11 of the postsecondary educational institution or the  
12 postsecondary educational institution's intercollegiate  
13 athletics or sports program. This term does not include a  
14 regulatory body, postsecondary educational institution,  
15 postsecondary educational institution staff member, or their  
16 respective officers, directors, managers, owners, or  
17 employees;

18 (2) "Postsecondary educational institution", any  
19 campus of a public or private institution of higher  
20 education in this state that is subject to the coordinating  
21 board for higher education under section 173.005;

22 [(2)] (3) "Student athlete", an individual who is  
23 eligible to participate in, participates in, or has  
24 participated in an intercollegiate sport for a postsecondary  
25 educational institution. Student athlete shall not be  
26 construed to apply to an individual's participation in a

27 college intramural sport or in a professional sport outside  
28 of intercollegiate athletics;

29 ~~[(3)]~~ (4) "Third party", any individual or entity,  
30 including any athlete agent, other than a postsecondary  
31 educational institution, athletic conference, or athletic  
32 association.

33 2. (1) No postsecondary educational institution shall  
34 uphold any rule, requirement, standard, or other limitation  
35 of an athletic association or athletic conference that  
36 prevents a student of that institution from fully  
37 participating in intercollegiate athletics without penalty  
38 and earning compensation as a result of the use of the  
39 student's name, image, likeness rights, or athletic  
40 reputation. A student athlete earning compensation from the  
41 use of a student's name, image, likeness rights, or athletic  
42 reputation shall not affect such student athlete's grant-in-  
43 aid or stipend eligibility, amount, duration, or renewal.

44 (2) No postsecondary educational institution shall  
45 interfere with or prevent a student from fully participating  
46 in intercollegiate athletics or obtaining professional  
47 representation in relation to contracts or legal matters  
48 relating to earning compensation as a result of the use of  
49 the student athlete's name, image, likeness rights, or  
50 athletic reputation, including, but not limited to,  
51 representation provided by athlete agents, financial  
52 advisors, or legal representation provided by attorneys.

53 3. A grant-in-aid or stipend from the postsecondary  
54 educational institution in which a student is enrolled shall  
55 not be construed to be compensation for use of the student's  
56 name, image, likeness rights, or athletic reputation for  
57 purposes of this section, and no grant-in-aid or stipend  
58 shall be revoked or reduced as a result of a student earning  
59 compensation under this section.

60           4. (1) No student athlete shall enter into an  
61 apparel, equipment, or beverage contract providing  
62 compensation to the athlete for use of the athlete's name,  
63 image, likeness rights, or athletic reputation if the  
64 contract requires the athlete to display a sponsor's  
65 apparel, equipment, or beverage or otherwise advertise for  
66 the sponsor during official team activities if such  
67 provisions are in conflict with a provision of the  
68 postsecondary educational institution's current licenses or  
69 contracts.

70           (2) (a) Except with the prior written consent of the  
71 student athlete's postsecondary educational institution, a  
72 student athlete shall not enter into a contract for  
73 compensation for the use of such student athlete's name,  
74 image, likeness rights, or athletic reputation, if such  
75 institution determines that a term of the contract conflicts  
76 with a term of a contract to which such institution is a  
77 party.

78           (b) A postsecondary educational institution or any  
79 officer, director, or employee of such institution,  
80 including but not limited to a coach, member of the coaching  
81 staff, or any individual associated with the [institutions]  
82 institution's athletic department, [may identify] shall have  
83 the right to identify, create, facilitate, negotiate,  
84 support, enable, or otherwise assist with opportunities for  
85 a student athlete to earn compensation from a third party,  
86 including an institutional marketing associate, for the use  
87 of the student athlete's name, image, likeness rights, or  
88 athletic reputation, provided that such individual shall not:

89           a. [Serve as the athlete's agent;  
90           b.] Receive compensation from the student athlete or a  
91 third party for facilitating [or], enabling, or assisting  
92 with such opportunities;

93 [c.] b. Attempt to influence an athlete's choice of  
94 professional representation related to such opportunities; or

95 [d.] c. Attempt to reduce such athlete's opportunities  
96 from competing third parties [; or

97 e. Be present at any meeting between a student athlete  
98 and a third party who provides for a student athlete's  
99 compensation, where the student athlete's name, image,  
100 likeness rights, or athletic reputation contract for  
101 compensation is negotiated or completed].

102 (c) The provisions of this section shall not be  
103 construed to qualify a student athlete as an employee of a  
104 postsecondary educational institution.

105 (3) Before any contract for compensation for the use  
106 of a student athlete's name, image, likeness rights, or  
107 athletic reputation, or for professional representation, is  
108 executed, and before any compensation is provided to the  
109 student athlete in advance of a contract, the student  
110 athlete shall disclose that contract to his or her  
111 postsecondary educational institution in a manner prescribed  
112 by such institution.

113 (4) A postsecondary educational institution or any  
114 officer, director, or employee of such institution [or  
115 entity] shall not compensate a student athlete, prospective  
116 student athlete, or the family of such individuals, [or  
117 cause compensation to be directed to a prospective student  
118 athlete, or the family of a student athlete or the family of  
119 a prospective student athlete,] for the use of such student  
120 athlete or prospective student athlete's name, image,  
121 likeness rights, or athletic reputation, unless otherwise  
122 permitted by institutional policy and a collegiate athletics  
123 association that the postsecondary educational institution  
124 is a member of.

125           (5) (a) As used in this subdivision, "unique  
126 identifier" means any of the following developed or adopted  
127 for marketing or promotional purposes by a postsecondary  
128 educational institution or a third party:

- 129           a. Seal;  
130           b. Logo;  
131           c. Emblem;  
132           d. Motto;  
133           e. Special symbol;  
134           f. Institutional colors;  
135           g. Modifier or descriptor;  
136           h. Design;  
137           i. Patentable or copyrightable item, material, or  
138 information; or  
139           j. Other item, material, or information that  
140 identifies and is recognizable as unique to such  
141 postsecondary educational institution or third party.

142           (b) A postsecondary educational institution or a third  
143 party shall develop and adopt a process for granting to a  
144 student athlete, or to a third party for use with a student  
145 athlete, a license to use such institution's or third  
146 party's unique identifiers when earning or attempting to  
147 earn compensation from the use of such student athlete's  
148 name, image, likeness rights, or athletic reputation  
149 consistent with its policies regarding licensing of its  
150 unique identifiers.

151           (c) A postsecondary educational institution or a third  
152 party may charge a reasonable fee for a license to use a  
153 unique identifier under this subdivision.

154           (d) A postsecondary educational institution, or a  
155 third party, may impose requirements that a student athlete  
156 granted a license under this subdivision refrain from using

157 such unique identifier in a manner that the institution in  
158 its sole discretion determines:

159 a. Is reasonably considered to be inconsistent with  
160 such institution's or third party's values or mission;

161 b. Adversely affects such institution's or third  
162 party's image;

163 c. Negatively impacts or inappropriately reflects upon  
164 the reputation or religious, moral, or ethical standards of  
165 such institution or third party;

166 d. Violates such institution's or third party's code  
167 of conduct or similar requirements; or

168 e. Conflicts with a provision of such institution's or  
169 third party's current licenses or contracts.

170 5. No contract of a postsecondary educational  
171 institution's athletic program shall prevent a student  
172 athlete from receiving compensation for using the student  
173 athlete's name, image, likeness rights, or athletic  
174 reputation for a commercial purpose when the athlete is not  
175 engaged in official mandatory team activities that are  
176 recorded in writing and can be made publicly available upon  
177 request.

178 6. (1) If a private postsecondary educational  
179 institution collects, retains, or maintains the terms of a  
180 student athlete's contract or proposed contract detailing  
181 compensation to such student athlete for the use of such  
182 student athlete's name, image, likeness, or athletic  
183 reputation, such postsecondary educational institution shall  
184 consider such contract terms to be student governed by the  
185 Family Education Rights and Privacy Act (FERPA).

186 (2) The terms of a contract or proposed contract  
187 detailing compensation to a student athlete for the use of  
188 such student athlete's name, image, likeness, or athletic  
189 reputation shall be deemed a closed record under chapter

190 610. A public postsecondary educational institution subject  
191 to this subsection may withhold or refuse to release or  
192 otherwise disclose such contract terms without seeking a  
193 formal opinion of the attorney general of this state as  
194 authorized in section 610.027.

195 7. (1) No compensation to a student athlete for  
196 earning or attempting to earn compensation from the use of  
197 such student athlete's name, image, likeness rights, or  
198 athletic reputation shall be conditioned on such student  
199 athlete's athletic performance. Those providing  
200 compensation to a student athlete for the use of his or her  
201 name, image, likeness rights, or athletic reputation shall  
202 have the right to condition payment of that compensation on  
203 a student athlete's attendance at a particular postsecondary  
204 educational institution.

205 (2) A charitable organization that qualifies as an  
206 exempt organization under 26 U.S.C. Section 501(c)(3), as  
207 amended, shall have the right to compensate a student  
208 athlete for the commercial use of the student athlete's  
209 name, image, likeness rights, or athletic reputation.

210 (3) Notwithstanding any rule of an athletic  
211 association, athletic conference, or any other organization  
212 with authority over varsity intercollegiate athletics,  
213 institutional marketing associates shall have the right to  
214 compensate a student athlete for the commercial use of the  
215 student athlete's name, image, likeness rights, or athletic  
216 reputation. This includes the right to compensate a student  
217 athlete for the commercial use of the student athlete's  
218 name, image, or likeness rights in connection with the  
219 promotion of athletic events in which the student athlete  
220 will or may participate, the promotion of the postsecondary  
221 educational institution the student athlete attends, and the  
222 promotion of the postsecondary educational institution's

223 intercollegiate athletics or sports program. Further, an  
224 institutional marketing associate shall, in the event that a  
225 postsecondary educational institution or its intercollegiate  
226 athletics program affirmatively grants a request, have the  
227 right to utilize a postsecondary educational institution's,  
228 or the postsecondary educational institution's  
229 intercollegiate athletics program's, content creation and  
230 marketing capabilities in connection with services provided  
231 for the promotion of athletic events in which a student  
232 athlete will or may participate, the postsecondary  
233 educational institution, or the institution's  
234 intercollegiate athletics or sports program.

235 (4) Notwithstanding any rule of an athletic  
236 association, athletic conference, or any other organization  
237 with authority over varsity intercollegiate athletics,  
238 student athletes shall have the right to receive  
239 compensation from an institutional marketing associate for  
240 the commercial use of their name, image, likeness rights, or  
241 athletic reputation, in connection with, among other items,  
242 the promotion of athletic events in which the student  
243 athlete will or may participate, the promotion of the  
244 postsecondary educational institution the student athlete  
245 attends, and the promotion of the postsecondary educational  
246 institution's intercollegiate athletics or sports program.

247 [6.] 8. (1) Postsecondary educational institutions  
248 that enter into commercial agreements that directly or  
249 indirectly require the use of a student athlete's name,  
250 image, likeness, or athletic reputation shall [conduct a]  
251 offer at least two workshops per calendar year that may  
252 include topics such as financial [development program once  
253 per year for their athletes] literacy, life skills, time  
254 management, and entrepreneurship. The workshops may not be  
255 offered in the same month and each workshop offered in a



256 calendar year must be unique and not simply a repeat of the  
257 other workshop offered that year. The institution shall  
258 notify all student athletes of the sessions through the  
259 distribution of informational materials via email or other  
260 communication methods the institution regularly uses to  
261 communicate with student athletes.

262 (2) 【The financial development program】 The  
263 educational workshops shall not include any marketing,  
264 advertising, referral, or solicitation by providers of  
265 financial products or services. 【Such program shall, at a  
266 minimum, include information concerning financial aid, debt  
267 management, and a recommended budget for student athletes  
268 based on the current year's cost of attendance. The  
269 workshop shall also include information on time management  
270 skills necessary for success as a student athlete and  
271 available academic resources.】

272 【(3) Postsecondary educational institutions shall help  
273 distribute informational materials for such programs as  
274 needed.

275 (4) Postsecondary educational institutions shall  
276 inform their athletes of such program meetings and provide  
277 appropriate meeting space.

278 7. Student athlete representation shall be by  
279 attorneys or agents licensed by this state.】

280 9. An athletic association, athletic conference, or  
281 any other organization with authority over varsity  
282 intercollegiate athletics shall not, and shall not authorize  
283 its member institutions to:

284 (1) Prevent a student athlete from receiving  
285 compensation for the commercial use of the student athlete's  
286 name, image, likeness rights, or athletic reputation under  
287 this section;

288           (2) Penalize a student athlete for receiving  
289 compensation for the commercial use of the student athlete's  
290 name, image, likeness rights, or athletic reputation under  
291 this section;

292           (3) Prevent a postsecondary educational institution  
293 from participating in varsity intercollegiate athletics or  
294 otherwise penalize a postsecondary educational institution  
295 as a result of a student athlete's receipt of compensation  
296 for the student athlete's name, image, likeness rights, or  
297 athletic reputation under this section;

298           (4) Prevent a postsecondary educational institution  
299 from establishing agreements with a third party entity to  
300 act on its behalf to identify, facilitate, enable, or  
301 support student athlete name, image, and likeness activities;

302           (5) Entertain a complaint, open an investigation, or  
303 take any other adverse action against a postsecondary  
304 educational institution or any of its employees for engaging  
305 in any activity protected under this section;

306           (6) Penalize a postsecondary educational institution  
307 because an institutional marketing associate compensates a  
308 student athlete for use of his or her name, image, likeness  
309 rights, or athletic reputation, as protected under this  
310 section, or if a third party violates the collegiate  
311 athletic association's rules or regulations with regard to  
312 student athlete name, image, or likeness activities.

313           10. A student athlete shall have the right to obtain  
314 professional representation for the purpose of securing  
315 compensation for the use of his or her name, image, or  
316 likeness without penalty or resulting limitation on  
317 participating or effect on the student athlete's athletic  
318 grant-in-aid eligibility. Professional representation shall  
319 be by attorneys or agents licensed by this state. Any  
320 professional representation agreement shall be in writing,

321 be executed by both parties, clearly describe the  
322 obligations of the parties, and outline fees for the  
323 professional representation.

324 [8.] 11. (1) Any student athlete may bring a civil  
325 action against third parties that violate this section or  
326 that interfere with such student athlete's earning or  
327 attempting to earn compensation from the use of such student  
328 athlete's name, image, likeness rights, or athletic  
329 reputation for appropriate injunctive relief or actual  
330 damages, or both. Such action shall be brought in the  
331 county where the violation occurred, or is about to occur,  
332 and the court shall award damages and court costs to a  
333 prevailing plaintiff.

334 (2) Student athletes bringing an action under this  
335 section shall not be deprived of any protections provided  
336 under law with respect to a controversy that arises and  
337 shall have the right to adjudicate claims that arise under  
338 this section.

339 [9.] 12. No legal settlement shall conflict with the  
340 provisions of this section.

341 [10.] 13. This section shall apply only to agreements  
342 or contracts entered into, modified, or renewed on or after  
343 August 28, 2021. Such agreements or contracts include, but  
344 are not limited to, the national letter of intent, an  
345 athlete's financial aid agreement, commercial contracts in  
346 the athlete group licensing market, and athletic conference  
347 or athletic association rules or bylaws.

348 14. No postsecondary educational institution's  
349 employees, including athletics coaching staff, shall be  
350 liable for any damages to a student athlete's ability to  
351 earn compensation for the use of the student athlete's name,  
352 image, or likeness resulting from decisions or actions  
353 routinely taken in the course of intercollegiate athletics.

354 15. This section does not affect the rights of student  
355 athletes under Title IX of the Education Amendments of 1971  
356 (20 U.S.C. Section 1681 et seq.).

357 16. (1) A high school athlete who competes on an  
358 interscholastic athletic team in this state that is  
359 sponsored by a public school or by a private school whose  
360 students compete against a public school's students may earn  
361 or attempt to earn compensation from the use of such  
362 athlete's name, image, likeness rights, or athletic  
363 reputation as provided in this section, subject to the  
364 following:

365 (a) A high school athlete shall have the right to  
366 discuss earning or attempting to earn such compensation  
367 before signing an athletic letter of intent or other written  
368 agreement only when having discussions about potential  
369 enrollment with a postsecondary educational institution in  
370 this state; and

371 (b) A high school athlete shall have the right to earn  
372 or attempt to earn such compensation only after signing an  
373 athletic letter of intent or other written agreement to  
374 enroll in a postsecondary educational institution in this  
375 state.

376 (2) The discussion of, or earning or attempting to  
377 earn, compensation from the use of such high school  
378 athlete's name, image, likeness rights, or athletic  
379 reputation as provided in this section shall not be  
380 construed to be a violation of any rules and regulations a  
381 high school student and high schools are required to follow  
382 to maintain and protect a high school athlete's high school  
383 eligibility to participate in high school athletics in this  
384 state."; and

385 Further amend the title and enacting clause accordingly.