

HOUSE BILL No. 2264

By Committee on Judiciary

2-8

1 AN ACT concerning student athletes at postsecondary educational
2 institution student athletes; permitting compensation for the use of a
3 student athlete's name, image, likeness rights or athletic reputation;
4 prohibiting certain conduct by postsecondary educational institutions
5 and athletic associations.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. As used in this act:

9 (a) "Act" means sections 1 through 5, and amendments thereto.

10 (b) "Athletic association" means an athletic association, conference or
11 other group or organization with authority over, or that is recognized as a
12 regulatory or promotional authority by, postsecondary educational
13 institutions participating in intercollegiate athletics, including, but not
14 limited to, the national collegiate athletic association.

15 (c) "Athlete agent" means an athlete agent as defined in the uniform
16 athlete agents act who has obtained and maintains a current certificate of
17 registration as set forth in the uniform athlete agents act and who complies
18 with the federal sports agent responsibility and trust act, 15 U.S.C. § 7801
19 et seq., established in chapter 104 of title 15 of the United States code.

20 (d) "Intercollegiate athletics" means sports played at the collegiate
21 level for which eligibility requirements for participation by a student
22 athlete are established by an athletic association that promotes or regulates
23 collegiate athletics.

24 (e) "Postsecondary educational institution" means a public or private
25 institution in this state that offers a degree or course of study beyond grade
26 12 and its controlled athletics entities. "Postsecondary educational
27 institution" includes a technical college, municipal university, community
28 college, college, university, state educational institution and not-for-profit
29 corporation controlled by an educational institution for the sole purpose of
30 operating its athletic program.

31 (f) "Student athlete" or "athlete" means a participant in varsity
32 intercollegiate athletics who is a student at a postsecondary educational
33 institution registered for courses full-time on the first day of class of a
34 semester, session or term or who practices or competes in intercollegiate
35 athletics.

36 Sec. 2. (a) A postsecondary educational institution shall not create or

1 enforce any rule, requirement, standard or other limitation that prevents a
2 student athlete of that institution from earning compensation as a result of
3 the use of the student athlete's name, image, likeness rights or athletic
4 reputation. The earning of compensation by a student athlete from the use
5 of a student athlete's name, image, likeness rights or athletic reputation
6 shall not affect a student athlete's scholarship eligibility or scholarship
7 renewal eligibility, unless otherwise required by federal laws or
8 institutional standards governing need-based awards due to income
9 received.

10 (b) An athletic association shall not:

11 (1) Prevent, restrict, impose any condition or penalty upon or
12 otherwise limit a student athlete of a postsecondary educational institution
13 from fully participating in intercollegiate athletics and earning
14 compensation as a result of the student athlete's use of the student athlete's
15 name, image, likeness rights or athletic reputation; or

16 (2) prevent, restrict, impose any condition or penalty upon or
17 otherwise limit a postsecondary educational institution, its employees or
18 volunteers from fully participating in intercollegiate athletics as a result of
19 a student athlete's use of the student athlete's name, image, likeness rights
20 or athletic reputation to earn compensation.

21 (c) A postsecondary educational institution or athletic association
22 shall not provide a prospective student athlete who will attend a
23 postsecondary educational institution or a current student athlete with
24 compensation in relation to the athlete's name, image, likeness rights or
25 athletic reputation.

26 (d) For the purposes of this act, an athletics grant-in-aid or a stipend
27 scholarship from a postsecondary educational institution in which a
28 student athlete is enrolled shall not be considered compensation for use of
29 a student athlete's name, image, likeness rights or athletic reputation, and
30 no postsecondary educational institution shall revoke or reduce an athletics
31 grant-in-aid or stipend scholarship as a result of a student athlete earning
32 compensation in accordance with this act, unless otherwise required by
33 federal laws or institutional standards governing need-based awards due to
34 income received.

35 Sec. 3. (a) A postsecondary educational institution or athletic
36 association shall not:

37 (1) Interfere with or prevent a student athlete who is enrolled at a
38 postsecondary educational institution within the state of Kansas and who
39 participates in intercollegiate athletics from obtaining professional
40 representation in relation to contracts or legal matters, including, but not
41 limited to, representation provided by an athlete agent or legal
42 representation provided by an attorney; or

43 (2) interfere with or prevent a student athlete from fully participating

1 in intercollegiate athletics as a result of the student athlete obtaining
2 professional representation in relation to contracts or legal matters,
3 including, but not limited to, representation provided by an athlete agent or
4 legal representation provided by an attorney.

5 (b) An athletic association shall not prevent, restrict, impose any
6 condition or penalty upon or otherwise limit a postsecondary educational
7 institution from fully participating in intercollegiate athletics as a result of
8 a student athlete obtaining professional representation in relation to
9 contracts or legal matters, including, but not limited to, representation
10 provided by an athlete agent or legal representation provided by an
11 attorney.

12 (c) Professional representation on behalf of a student athlete by an
13 athlete agent or attorney shall only be provided by persons licensed by this
14 state or holding certificates of registration as provided by applicable
15 Kansas law, including the uniform athlete agents act, and who are in
16 compliance with such Kansas law and the federal sports agent
17 responsibility and trust act, 15 U.S.C. § 7801 et seq., established in chapter
18 104 of title 15 of the United States code.

19 Sec. 4. (a) A student athlete shall be deemed to have granted the
20 student's postsecondary educational institution the right, royalty-free and
21 without compensation in return therefor, to use the student athlete's name,
22 image, likeness rights or athletic reputation and any alterations thereto, to
23 the extent and in the form determined in the institution's sole discretion, at
24 any time for its advertising and marketing related to the postsecondary
25 educational institution's athletic, academic, promotional and historical
26 interests. Any contractual provision in a contract between a student athlete
27 and a third-party sponsor or athlete agent in conflict with this provision is
28 null and void.

29 (b) A student athlete shall not enter into a contract providing
30 compensation to the student athlete for use of the student athlete's name,
31 image, likeness rights or athletic reputation if a provision of that contract is
32 in conflict with a provision of a contract entered into by the postsecondary
33 educational institution's department or an affiliated entity, including, but
34 not limited to, a contract that requires the student athlete to display a
35 sponsor's apparel, or otherwise advertise for a sponsor, during official team
36 activities if such provision is in conflict with a provision of a contract
37 binding the postsecondary educational institution.

38 (c) A postsecondary educational institution asserting a conflict
39 described in subsection (b) shall disclose to the student athlete and the
40 student athlete's professional representative, if applicable, the full contract
41 that the postsecondary educational institution asserts is in conflict and
42 shall designate the relevant contractual provisions asserted to be in
43 conflict.

1 (d) A postsecondary educational institution or its athletic program
2 shall not enter into a contract that prevents a student athlete from receiving
3 compensation for using the student athlete's name, image, likeness rights
4 or athletic reputation for a commercial purpose when the student athlete is
5 not engaged in official team activities.

6 (e) A student athlete who enters into a contract providing
7 compensation to the student athlete for the use of the student athlete's
8 name, image, likeness rights or athletic reputation shall disclose the
9 contract to an official of the postsecondary educational institution to be
10 designated by the postsecondary educational institution. The
11 postsecondary educational institution shall provide notice of and the
12 contact information for such designated official to all student athletes prior
13 to the first day of class of a semester, session or term. A student athlete
14 shall provide disclosure of a contract within five business days of the date
15 of signature of the contract by the student athlete.

16 (f) This act shall not authorize prospective student athletes who may
17 attend a postsecondary educational institution to negotiate, discuss or
18 receive compensation for the use of the prospective student athlete's name,
19 image, likeness rights or athletic reputation prior to the earlier of the first
20 day of class of a semester, session or term in which the student athlete is
21 registered for full-time courses at a postsecondary educational institution
22 or the first practice or competition in intercollegiate athletics.

23 Sec. 5. (a) This act shall not apply to a contract executed, modified or
24 renewed by a student athlete before the effective date of this act.

25 (b) This act shall not apply to any accredited not-for-profit
26 postsecondary educational institution with a physical presence in this state
27 that is exempted from the Kansas private and out-of-state postsecondary
28 educational institution act if such institution elects to be exempted from
29 the provisions of this act.

30 (c) A legal settlement arising under this act shall not permit
31 noncompliance with this act.

32 Sec. 6. This act shall take effect and be in force from and after
33 January 1, 2022, and its publication in the statute book.