

118TH CONGRESS  
1ST SESSION

# H. R. 3630

To prohibit certain entities from barring a student athlete from participating in intercollegiate athletics as a result of such student athlete entering into an endorsement contract, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2023

Mr. CAREY (for himself and Mr. LANDSMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit certain entities from barring a student athlete from participating in intercollegiate athletics as a result of such student athlete entering into an endorsement contract, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Student Athlete Level Playing Field Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Ability of student athletes to enter agency and endorsement contracts.
- Sec. 3. Covered Athletic Organization Commission.
- Sec. 4. Institutions of higher education and student athletes who enter into endorsement contracts.
- Sec. 5. Prohibiting unfair or deceptive acts or practices against student athletes.
- Sec. 6. Registration of certain agents.
- Sec. 7. State preemption.
- Sec. 8. Rules of construction.
- Sec. 9. Sense of Congress.
- Sec. 10. Definitions.

3 **SEC. 2. ABILITY OF STUDENT ATHLETES TO ENTER AGENCY**  
 4 **AND ENDORSEMENT CONTRACTS.**

5 (a) IN GENERAL.—A covered athletic organization or  
 6 institution of higher education may not prohibit a student  
 7 athlete from participating in intercollegiate athletics as a  
 8 result of such student athlete entering into an agency con-  
 9 tract or an endorsement contract, or otherwise receiving  
 10 consideration for the name, image, or likeness of such stu-  
 11 dent athlete.

12 (b) LIMITATION ON ATHLETIC DEPARTMENTS.—An  
 13 agreement under which consideration is provided to a stu-  
 14 dent athlete for use of the name, image, or likeness of  
 15 the student athlete, including such an agreement between  
 16 an institution of higher education and a student athlete,  
 17 may not be negotiated, drafted, or funded by the athletic  
 18 department of the institution of higher education of the  
 19 student athlete or an institutional employee who reports  
 20 to such athletic department.

1 (c) INSIGNIA PROHIBITIONS.—A student athlete may  
2 be prohibited, by the institution of higher education of the  
3 student athlete, from wearing an item of clothing or gear  
4 with the insignia of an entity during an athletic competi-  
5 tion or athletic-related event that is sponsored by the insti-  
6 tution.

7 (d) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
8 SION.—

9 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
10 TICES.—A violation of subsection (a) shall be treated  
11 as a violation of a regulation under section  
12 18(a)(1)(B) of the Federal Trade Commission Act  
13 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-  
14 tive acts or practices.

15 (2) POWERS OF COMMISSION.—The Federal  
16 Trade Commission shall enforce subsection (a) in  
17 the same manner, by the same means, and with the  
18 same jurisdiction, powers, and duties as though all  
19 applicable terms and provisions of the Federal Trade  
20 Commission Act (15 U.S.C. 41 et seq.) were incor-  
21 porated into and made a part of this Act. Any per-  
22 son who violates such subsection shall be subject to  
23 the penalties and entitled to the privileges and im-  
24 munities provided in the Federal Trade Commission  
25 Act.

1           (3) **RULE OF CONSTRUCTION.**—Nothing in this  
2           section may be construed to limit the authority of  
3           the Federal Trade Commission under any other pro-  
4           vision of law.

5 **SEC. 3. COVERED ATHLETIC ORGANIZATION COMMISSION.**

6           (a) **ESTABLISHMENT.**—There is established the Cov-  
7           ered Athletic Organization Commission (in this section re-  
8           ferred to as the “Commission”), the purpose of which shall  
9           be to make recommendations—

10           (1) to Congress and covered athletic organiza-  
11           tions, on the implementation of name, image, and  
12           likeness rules;

13           (2) to covered athletic organizations, on a proc-  
14           ess for certifying or recognizing credentialed athlete  
15           agents; and

16           (3) on the establishment of an independent dis-  
17           pute resolution process for disputes arising between  
18           a student athlete and a covered athletic organization  
19           or an institution of higher education.

20           (b) **MEMBERSHIP.**—

21           (1) **IN GENERAL.**—The Commission shall con-  
22           sist of 13 members appointed from among the fol-  
23           lowing:

1 (A) Representatives of institutions of high-  
2 er education, including athletic directors and  
3 coaches.

4 (B) Individuals who are current or former  
5 student athletes and who advocate for the inter-  
6 ests of student athletes.

7 (C) Administrators of covered athletic or-  
8 ganizations.

9 (D) Professionals with expertise in sports  
10 marketing, contracting, and public relations.

11 (E) Individuals—

12 (i) with expertise in corporate govern-  
13 ance; and

14 (ii) who are not associated with a cov-  
15 ered athletic organization or institution of  
16 higher education.

17 (2) STUDENT ATHLETE ADVOCATES.—At least  
18 2 individuals described in paragraph (1)(B) shall be  
19 appointed to the Commission.

20 (c) APPOINTMENT.—

21 (1) IN GENERAL.—Not later than 60 days after  
22 the date of the enactment of this Act, 12 members  
23 of the Commission shall be appointed as follows:

24 (A) 3 members appointed by the Speaker  
25 of the House of Representatives.

1 (B) 3 members appointed by the minority  
2 leader of the House of Representatives.

3 (C) 3 members appointed by the majority  
4 leader of the Senate.

5 (D) 3 members appointed by the minority  
6 leader of the Senate.

7 (2) CHAIR.—

8 (A) APPOINTMENT.—Not later than 60  
9 days after the appointment of the initial 12  
10 members of the Commission under paragraph  
11 (1), 1 member shall be appointed to the Com-  
12 mission by such members, upon agreement of 8  
13 such members on the individual to be ap-  
14 pointed.

15 (B) RESULT OF INABILITY TO REACH  
16 AGREEMENT.—If agreement on an individual to  
17 be appointed as a member of the Commission  
18 under subparagraph (A) is not reached during  
19 the time period described in that subparagraph,  
20 the Speaker of the House of Representatives  
21 shall make the appointment of such member.

22 (C) POSITION AS CHAIR OF THE COMMIS-  
23 SION.—The member appointed to the Commis-  
24 sion under this paragraph shall be the chair of  
25 the Commission.

1           (3) DIVERSITY.—To the extent practicable, the  
2 individuals making appointments under paragraphs  
3 (1) and (2) shall coordinate their appointments to  
4 ensure that the Commission reflects diversity with  
5 respect to gender, race, and sport of association, as  
6 applicable, and shall prioritize the appointment of  
7 members unaffiliated with a division or conference of  
8 a covered athletic organization.

9           (d) MEETINGS AND QUORUM.—

10           (1) MEETING AT CALL OF CHAIR.—Meetings of  
11 the Commission shall be held at the call of the chair  
12 of the Commission.

13           (2) QUORUM.—A meeting of the Commission  
14 may only be held if there is a quorum of at least 7  
15 members, including not fewer than 2 members who  
16 are individuals described in subsection (b)(1)(B).

17           (e) REPORT.—Not later than 1 year after the Com-  
18 mission is constituted, and annually thereafter during the  
19 subsequent 2-year period, the Commission shall submit to  
20 the Committee on Energy and Commerce of the House  
21 of Representatives and the Committee on Commerce,  
22 Science, and Transportation of the Senate, and make  
23 available to the public, a report on the activities of the  
24 Commission that includes the recommendations made  
25 under subsection (a).

1 (f) SUNSET.—The Commission shall terminate on the  
2 date that is 60 days after the date on which the Commis-  
3 sion submits the final report required under subsection  
4 (e).

5 **SEC. 4. INSTITUTIONS OF HIGHER EDUCATION AND STU-**  
6 **DENT ATHLETES WHO ENTER INTO EN-**  
7 **DORSEMENT CONTRACTS.**

8 Section 487(a) of the Higher Education Act of 1965  
9 (20 U.S.C. 1094(a)) is amended by adding at the end the  
10 following:

11 “(30) In the case of an institution that has a  
12 student attending the institution who is an athlete  
13 at the institution and who is entering into an en-  
14 dorsement contract (as defined in section 2 of the  
15 Sports Agent Responsibility and Trust Act (15  
16 U.S.C. 7801)) or an agency contract (as defined in  
17 section 10 of the Student Athlete Level Playing  
18 Field Act), such institution will not prohibit such  
19 student from entering into such contract, including  
20 through a rule, standard, or policy that affects the  
21 eligibility of such student to receive athletically re-  
22 lated student aid (as defined in section 485(e) of  
23 this Act).”.



1 **SEC. 5. PROHIBITING UNFAIR OR DECEPTIVE ACTS OR**  
2 **PRACTICES AGAINST STUDENT ATHLETES.**

3 (a) PROHIBITING UNFAIR OR DECEPTIVE ACTS OR  
4 PRACTICES BY BOOSTERS.—The Sports Agent Responsi-  
5 bility and Trust Act (15 U.S.C. 7801 et seq.) is amend-  
6 ed—

7 (1) in section 2—

8 (A) by redesignating paragraphs (4)  
9 through (9) as paragraphs (5) through (10), re-  
10 spectively; and

11 (B) by inserting after paragraph (3) the  
12 following new paragraph:

13 “(4) BOOSTER.—The term ‘booster’ means an  
14 individual (other than an individual who is related to  
15 an applicable student athlete) or an organization (in-  
16 cluding a sponsor) that provides substantial financial  
17 assistance or services to the athletic program of an  
18 educational institution or that promotes a team or  
19 athletic program of an educational institution for  
20 purposes of the substantial financial interest of the  
21 individual or organization.”;

22 (2) by inserting after section 3 the following  
23 new section:

1 **“SEC. 3A. REGULATION OF UNFAIR OR DECEPTIVE ACTS OR**  
 2 **PRACTICES IN CONNECTION WITH CONTACT**  
 3 **BETWEEN A BOOSTER AND A STUDENT ATH-**  
 4 **LETE.**

5 “It is unlawful for a booster to directly or indirectly  
 6 provide or offer to provide any funds or thing of value  
 7 as an inducement for a student athlete to enroll at a spe-  
 8 cific educational institution or group of such institutions,  
 9 including that a booster may not orally or in writing enter  
 10 into a contract or agreement with a prospective student  
 11 athlete to provide the prospective student athlete with con-  
 12 sideration for the use of the name, image, or likeness of  
 13 the prospective student athlete until the prospective stu-  
 14 dent athlete enrolls full time at the relevant institution.”;  
 15 and

16 (3) in section 5(a)(1), by inserting “or by the  
 17 engagement of a booster in a practice that violates  
 18 section 3A of this Act” after “section 3 of this Act”.

19 (b) **ELIGIBILITY TO COMPETE AS A STUDENT ATH-**  
 20 **LETE AFTER ENTERING INTO AN AGENCY CONTRACT.—**

21 (1) **IN GENERAL.**—Section 3(b)(3) of the  
 22 Sports Agent Responsibility and Trust Act (15  
 23 U.S.C. 7802(b)(3)) is amended by striking “boldface  
 24 type stating:” and all that follows through the end  
 25 of the paragraph and inserting the following: “bold-  
 26 face type stating: ‘Notice to Student Athlete: If you

1 agree orally or in writing to be represented by an  
2 agent now or in the future, both you and the agent  
3 you are agreeing to be represented by must notify  
4 the athletic director of the educational institution at  
5 which you are enrolled, or another individual respon-  
6 sible for the athletic programs at such educational  
7 institution, that you have entered into an agency  
8 contract. Such notification must be made within 72  
9 hours after entering into the agreement or before  
10 the next athletic event in which you are eligible to  
11 participate, whichever occurs first.'”.

12 (2) CLEARINGHOUSE.—

13 (A) ESTABLISHMENT.—Not later than 180  
14 days after the date of the enactment of this  
15 Act, the Federal Trade Commission shall estab-  
16 lish a clearinghouse for endorsement contracts  
17 entered into by student athletes and athlete  
18 agents who represent student athletes.

19 (B) AGREEMENT DISCLOSURE RE-  
20 QUIRED.—

21 (i) IN GENERAL.—The Federal Trade  
22 Commission shall require each student ath-  
23 lete and each athlete agent who represents  
24 student athletes to disclose to the clearing-  
25 house established under subparagraph (A)

1           each endorsement contract entered into by  
2           such student athlete or such agent with a  
3           value of more than \$500.

4                   (ii) TIMING.—Disclosure of a contract  
5           under clause (i) shall be made not later  
6           than 72 hours after agreement on the con-  
7           tract.

8           (C) NOTIFICATION OF INSTITUTIONS.—  
9           The Clearinghouse established under subpara-  
10          graph (A) shall notify the relevant institution of  
11          higher education about each contract disclosed  
12          under this paragraph and shall make such dis-  
13          closures available to the public on a regular  
14          basis.

15          (c) REPORT ON CLAIMS FILED PURSUANT TO THE  
16          SPORTS AGENT RESPONSIBILITY AND TRUST ACT.—The  
17          Sports Agent Responsibility and Trust Act (15 U.S.C.  
18          7801 et seq.), as amended by this Act, is further amended  
19          by inserting after section 6 the following new section:

20          **“SEC. 6A. REPORT TO CONGRESS.**

21                 “Not later than 180 days after the date of the enact-  
22          ment of this section, and annually thereafter, the Commis-  
23          sion shall submit to the Committee on Energy and Com-  
24          merce of the House of Representatives and the Committee  
25          on Commerce, Science, and Transportation of the Senate

1 a report summarizing any investigations or enforcement  
2 actions brought by the Commission pursuant to this Act  
3 during the preceding 1-year period, including the number  
4 of complaints filed with the Commission pursuant to this  
5 Act during such period.”.

6 **SEC. 6. REGISTRATION OF CERTAIN AGENTS.**

7 (a) PROGRAM.—Not later than 180 days after the  
8 date of the enactment of this Act, the Federal Trade Com-  
9 mission shall establish a program to register athlete  
10 agents for student athletes.

11 (b) REGISTRATION REQUIRED.—Upon establishment  
12 of the program required under subsection (a), a person  
13 who enters into an agency contract with a student athlete  
14 shall register with the Federal Trade Commission as an  
15 athlete agent for student athletes.

16 (c) NO COST FOR REGISTRATION.—The Federal  
17 Trade Commission may not charge a fee in relation to a  
18 registration under this section.

19 (d) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
20 SION.—

21 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
22 TICES.—A violation of subsection (b) shall be treated  
23 as a violation of a regulation under section  
24 18(a)(1)(B) of the Federal Trade Commission Act

1 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-  
2 tive acts or practices.

3 (2) POWERS OF COMMISSION.—The Federal  
4 Trade Commission shall enforce subsection (b) in  
5 the same manner, by the same means, and with the  
6 same jurisdiction, powers, and duties as though all  
7 applicable terms and provisions of the Federal Trade  
8 Commission Act (15 U.S.C. 41 et seq.) were incor-  
9 porated into and made a part of this Act. Any per-  
10 son who violates such subsection shall be subject to  
11 the penalties and entitled to the privileges and im-  
12 munities provided in the Federal Trade Commission  
13 Act.

14 (3) RULE OF CONSTRUCTION.—Nothing in this  
15 section may be construed to limit the authority of  
16 the Federal Trade Commission under any other pro-  
17 vision of law.

18 **SEC. 7. STATE PREEMPTION.**

19 No State may enforce a State law or regulation with  
20 respect to permitting or abridging the ability of a student  
21 athlete attending an institution of higher education to  
22 enter into an endorsement contract or agency contract  
23 pursuant to this Act or an amendment made by this Act.

1 **SEC. 8. RULES OF CONSTRUCTION.**

2 (a) TAX.—Nothing in this Act, or the amendments  
3 made by this Act, may be construed to affect the treat-  
4 ment of qualified scholarships under section 117 of the  
5 Internal Revenue Code of 1986.

6 (b) NONDISCRIMINATION.—Nothing in this Act, or  
7 the amendments made by this Act, may be construed to  
8 affect the rights of student athletes, or affect any program  
9 funded, under title IX of the Education Amendments of  
10 1972 (20 U.S.C. 1681 et seq.).

11 (c) ANTITRUST.—Nothing in this Act, or the amend-  
12 ments made by this Act, may be construed to provide a  
13 cause of action pursuant to the Sherman Act (15 U.S.C.  
14 1 et seq.).

15 (d) EMPLOYEE STATUS.—Nothing in this Act, or the  
16 amendments made by this Act, may be construed to affect  
17 the employment status of a student athlete who enters into  
18 an endorsement contract with respect to a covered athletic  
19 organization or an institution of higher education.

20 **SEC. 9. SENSE OF CONGRESS.**

21 It is the sense of Congress that—

22 (1) institutions of higher education and covered  
23 athletic organizations should develop a course or  
24 program to assist student athletes with financial lit-  
25 eracy with respect to entering into endorsement con-  
26 tracts; and

1           (2) the Federal Trade Commission should in-  
2           investigate each claim filed pursuant to the Sports  
3           Agent Responsibility and Trust Act (15 U.S.C. 7801  
4           et seq.).

5 **SEC. 10. DEFINITIONS.**

6           In this Act:

7           (1) AGENCY CONTRACT.—The term “agency  
8           contract” means an oral or written agreement under  
9           which a student athlete authorizes a person to nego-  
10          tiate or solicit an endorsement contract on behalf of  
11          the student athlete.

12          (2) ATHLETE AGENT.—The term “athlete  
13          agent” has the meaning given that term in section  
14          2 of the Sports Agent Responsibility and Trust Act  
15          (15 U.S.C. 7801).

16          (3) COVERED ATHLETIC ORGANIZATION.—The  
17          term “covered athletic organization” means an ath-  
18          letic association, conference, or other organization  
19          with authority over intercollegiate athletics or that  
20          administers intercollegiate athletics.

21          (4) ENDORSEMENT CONTRACT.—The term “en-  
22          dorsement contract” has the meaning given such  
23          term in section 2 of the Sports Agent Responsibility  
24          and Trust Act (15 U.S.C. 7801).



1           (5) INSTITUTION OF HIGHER EDUCATION.—The  
2 term “institution of higher education” has the  
3 meaning given that term in section 101 of the High-  
4 er Education Act of 1965 (20 U.S.C. 1001).

5           (6) STUDENT ATHLETE.—The term “student  
6 athlete” has the meaning given that term in section  
7 2 of the Sports Agent Responsibility and Trust Act  
8 (15 U.S.C. 7801).

○