AN ACT

relating to the compensation and professional representation of
student athletes participating in intercollegiate athletic
programs at certain institutions of higher education.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds and declares the
following:

(1) intercollegiate athletics are an essential part of
the fabric of this state;

(2) the competitive integrity of intercollegiate
athletics is of vital importance;

(3) the United States Congress has failed to act to
provide uniform guidance to the states on the matter of
intercollegiate athletes receiving compensation in exchange for
the use of the athlete's name, image, or likeness; and

(4) the United States Congress must act on this matter
to ensure the competitive integrity of intercollegiate athletics.

SECTION 2. Subchapter Z, Chapter 51, Education Code, is
amended by adding Section 51.9246 to read as follows:

Sec. 51.9246. COMPENSATION AND PROFESSIONAL REPRESENTATION
OF STUDENT ATHLETES PARTICIPATING IN INTERCOLLEGIATE ATHLETIC
PROGRAMS. (a) In this section:

(1) "Athlete agent" has the meaning assigned by
Section 2051.001, Occupations Code.
"General academic teaching institution" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

"Honor code" means a set of rules or principles governing an academic community to which a student agrees to abide when attending an institution to which this section applies.

"Institutional contract" means a contract between an institution to which this section applies or its designated representative and an external party that includes a sponsorship agreement governing the use of the institution's trademarks in connection with athletics.

"Team contract" means a contract between a student athlete and an institution to which this section applies and includes any rules or expectations of the institution's athletic department or head coach that require a student athlete's compliance as a condition under the contract of participation as a member of the intercollegiate athletic program.

(b) This section applies only to:

(1) a general academic teaching institution; or

(2) a private or independent institution of higher education.

(c) An institution to which this section applies may not:

(1) adopt or enforce a policy, requirement, standard, or limitation that prohibits or otherwise prevents a student athlete participating in an intercollegiate athletic program at the institution from:

(A) earning compensation for the use of the
student athlete’s name, image, or likeness when the student athlete is not engaged in official team activities, as that term is defined by the institution; or

(B) obtaining professional representation, including representation by an attorney licensed to practice law in this state, for contracts or other legal matters relating to the use of the student athlete’s name, image, or likeness; or

(2) provide or solicit a prospective student athlete of an intercollegiate athletic program at the institution with compensation in relation to the prospective student athlete’s name, image, or likeness.

(d) A scholarship, grant, or similar financial assistance awarded to a student athlete by an institution to which this section applies that covers the student athlete’s cost of attendance at the institution is not compensation for purposes of this section.

(e) A student athlete participating in an intercollegiate athletic program at an institution to which this section applies may not be disqualified from eligibility for a scholarship, grant, or similar financial assistance awarded by the institution because the student athlete:

(1) earns compensation from the use of the student athlete’s name, image, or likeness when the student athlete is not engaged in official team activities; or

(2) obtains professional representation, including representation by an attorney licensed to practice law in this state, for contracts or other legal matters relating to use of the student athlete’s name, image, or likeness.
(f) An institution to which this section applies may not prescribe a team contract for an intercollegiate athletic program that prohibits or otherwise prevents a student athlete from using the student athlete's name, image, or likeness for a commercial purpose when the student athlete is not engaged in official team activities.

(g) A student athlete participating in an intercollegiate athletic program at an institution to which this section applies:

(1) shall, before entering into the contract, disclose to the institution, in the manner prescribed by the institution, any proposed contract the student athlete may sign for use of the student athlete's name, image, or likeness;

(2) may not enter into a contract for the use of the student athlete's name, image, or likeness if:

(A) any provision of the contract conflicts with a provision of the student athlete's team contract, a provision of an institutional contract of the institution, a policy of the athletic department of the institution, or a provision of the honor code of the institution;

(B) the compensation for the use of the student athlete's name, image, or likeness is provided:

(i) in exchange for athletic performance or attendance at the institution;

(ii) by the institution;

(iii) in exchange for property owned by the institution or for providing an endorsement while using intellectual property or other property owned by the institution;
or

(iv) in exchange for an endorsement of alcohol, tobacco products, e-cigarettes or any other type of nicotine delivery device, anabolic steroids, sports betting, casino gambling, a firearm the student athlete cannot legally purchase, or a sexually oriented business as defined in Section 243.002, Local Government Code; or

(C) the duration of the contract extends beyond the student athlete's participation in the intercollegiate athletic program;

(3) is not considered an employee of the institution based on the student athlete's participation in the intercollegiate athletic program; and

(4) may earn compensation from selling the student athlete's autograph in a manner that does not otherwise conflict with a provision of this section.

(h) An institution to which this section applies that identifies a provision in a contract disclosed to the institution by a student athlete under Subsection (g)(1) that conflicts with a provision in the student athlete's team contract, a provision of an institutional contract of the institution, a policy of the athletic department of the institution, or a provision of the honor code of the institution shall promptly disclose the conflict to the student athlete or the student athlete's representative, if applicable. The student athlete or the student athlete's representative is responsible for resolving the conflict not later than the 10th day after the date of the disclosure.
(i) An institution to which this section applies shall require a student athlete participating in an intercollegiate athletic program at the institution to attend a financial literacy and life skills workshop at the beginning of the student's first and third academic years at the institution. The workshop must be at least five hours in duration and include information on financial aid, debt management, time management, budgeting, and academic resources available to the student athlete. The institution may not during the workshop allow any provider of financial products or services to:

(1) market, advertise, or refer the provider's services to a student athlete; or

(2) solicit a student athlete to use the provider's services.

(j) No individual, corporate entity, or other organization may:

(1) enter into any arrangement with a prospective student athlete relating to the prospective student athlete's name, image, or likeness prior to their enrollment in an institution of higher education; or

(2) use inducements of future name, image, and likeness compensation arrangement to recruit a prospective student athlete to any institution of higher education.

(k) Nothing in this section may be construed as permitting an athlete agent to take any action prohibited under Section 2051.351, Occupations Code.

SECTION 3. Section 51.9246(f), Education Code, as added by
S.B. No. 1385

1 this Act, applies only to a contract entered into, modified, or
2 renewed on or after the effective date of this Act.
3
4 SECTION 4. This Act takes effect July 1, 2021, if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary to take effect July
8 1, 2021, this Act takes effect September 1, 2021.
President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1385 passed the Senate on April 22, 2021, by the following vote: Yeas 28, Nays 2, one present not voting; and that the Senate concurred in House amendment on May 28, 2021, by the following vote: Yeas 28, Nays 2, one present not voting.

Secretary of the Senate

I hereby certify that S.B. No. 1385 passed the House, with amendment, on May 23, 2021, by the following vote: Yeas 117, Nays 27, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor