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**S. 256**

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\256_20201209.docx)

**A** **BILL**

TO AMEND TITLE 59 OF THE 1976 CODE, RELATING TO EDUCATION, BY ADDING CHAPTER 157, TO PROVIDE THAT A STUDENT ATHLETE MAY RECEIVE COMPENSATION FOR THE USE OF HIS NAME, IMAGE, OR LIKENESS, AND TO PROVIDE FOR LIMITATIONS AND DISCLOSURE REQUIREMENTS; TO AMEND CHAPTER 101, TITLE 59 OF THE 1976 CODE, RELATING TO COLLEGES AND INSTITUTIONS OF HIGHER LEARNING GENERALLY, BY ADDING ARTICLES 9 AND 10, TO PROVIDE THAT PARTICIPATING INSTITUTIONS IN THIS STATE SHALL ANNUALLY AWARD STIPENDS TO A STUDENT ATHLETE WHO PARTICIPATES IN AN INTERCOLLEGIATE SPORT AND MAINTAINS GOOD ACADEMIC STANDING DURING THE PREVIOUS YEAR, TO PROVIDE CONDITIONS FOR THE RECEIPT OF STIPENDS, TO PROVIDE THAT PARTICIPATING INSTITUTIONS SHALL CREATE A STUDENT ATHLETE TRUST FUND AND FUND THE TRUST WITH A PERCENTAGE OF THE INTERCOLLEGIATE SPORT GROSS REVENUE, TO PROVIDE THAT FIVE THOUSAND DOLLARS WILL BE DEPOSITED INTO THE FUND ON A STUDENT ATHLETE’S BEHALF FOR EACH YEAR THAT HE MAINTAINS GOOD ACADEMIC STANDING, TO PROVIDE THAT THE TOTAL TRUST FUND AMOUNT MAY NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS PER STUDENT ATHLETE, TO PROVIDE THAT A PARTICIPATING INSTITUTION SHALL PROVIDE A ONE-TIME PAYMENT TO EACH STUDENT ATHLETE AFTER THE FULFILLMENT OF CERTAIN REQUIREMENTS, AND TO PROVIDE CONDITIONS FOR THE RECEIPT OF A TRUST FUND PAYMENT; AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 157

Student Athlete Name, Image, or Likeness Compensation

Section 59-157-10. For the purposes of this chapter:

(1) ‘Institution of higher learning’ means any post-secondary educational institution, including technical and comprehensive educational institutions.

(2) ‘Intercollegiate sport’ means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate sports.

(3) ‘Name, image, or likeness contract’ means an agreement in which a student athlete participating in intercollegiate sports authorizes a person to use his name, image, or likeness and, in return, receives consideration. This term shall include, but is not limited to, endorsement contracts, as defined in Section 59-102-20(6).

(4) ‘Student athlete’ means an individual who engages in an intercollegiate sport, including a redshirt individual. If an individual is permanently ineligible to participate in a particular intercollegiate sport, then the individual is not a student athlete for the purposes of that sport.

(5) ‘Team contract’ means any agreement between a student athlete and an institution of higher learning that could impact a student athlete’s eligibility to participate in an intercollegiate sport, including, but not limited to, scholarship agreements or participation agreements.

Section 59-157-20. (A) An institution of higher learning shall not implement or enforce any rule, requirement, standard, or other limitation that prevents a student athlete of that institution who is participating in intercollegiate sports from earning compensation as a result of the use of the student athlete’s name, image, or likeness. Earning compensation from the use of a student athlete’s name, image, or likeness shall not affect the student athlete’s scholarship eligibility.

(B) A state or national federation or association that promotes or regulates intercollegiate sports, including, but not limited to, the National Collegiate Athletic Association, shall not prevent a student athlete of an institution of higher learning who is participating in intercollegiate sports from earning compensation as a result of the use of the student athlete’s name, image, or likeness.

(C) A state or national federation or association that promotes or regulates intercollegiate sports, including, but not limited to, the National Collegiate Athletic Association, shall not prevent an institution of higher learning from participating in intercollegiate sports as a result of the compensation of a student athlete for the use of the student athlete’s name, image, or likeness.

Section 59-157-30. An institution of higher learning shall not provide a prospective student athlete with compensation in relation to the prospective student athlete’s name, image, or likeness.

Section 59-157-40. (A) A student athlete may engage professional representation in relation to a name, image, or likeness contract or related legal matter from an athlete agent, as provided for in Chapter 102, Title 59; a licensed attorney admitted to practice law in the State of South Carolina; or both.

(B) Athlete agents representing student athletes shall comply with the federal Sports Agent Responsibility and Trust Act, established in Chapter 104 (commencing with Section 7801) of Title 15 of the United States Code, in their relationships with student athletes.

Section 59-157-50. The following are not considered compensation for the purposes of this chapter and shall not be revoked as a result of earning compensation or obtaining legal representation pursuant to this chapter:

(1) a scholarship from the institution of higher learning in which a student athlete is enrolled that provides the student athlete with the cost of attendance at that institution; and

(2) a stipend from a postsecondary institution that is paid to the student athlete pursuant to Article 9, Chapter 101, Title 59.

Section 59-157-60. (A) A student athlete shall not enter into a name, image, or likeness contract if a provision of the contract is in conflict with a provision of the student athlete’s team contract.

(B) A student athlete who enters into a name, image, or likeness contract shall disclose the contract to the athletic director, as defined in Section 59-101-900, at the student athlete’s institution of higher learning.

(C) An institution of higher learning asserting a conflict described in subsection (A) shall disclose to the student athlete or the student athlete’s professional representation, if any, the relevant contractual provisions that are in conflict.

Section 59-157-70. A team contract of an institution of higher learning’s athletic program shall not prevent a student athlete from using his name, image, or likeness for a commercial purpose when the student athlete is not engaged in official team activities.”

B. The provisions of Section 59-157-70, as added by this act, shall only apply to contracts entered into, modified, or renewed on or after the effective date of this act.

SECTION 2. Chapter 101, Title 59 of the 1976 Code is amended by adding:

“ARTICLE 9

Student Athlete Stipends

Section 59-101-900. For the purposes of this article:

(1) ‘Athletic director’ means an individual responsible for administering the overall athletic program of a participating institution or, if a participating institution has separately administered programs for male and female students, the athletic program for males and the athletic program for females, as appropriate.

(2) ‘Good academic standing’ means a cumulative grade point average of 2.00 or higher.

(3) ‘Intercollegiate sport’ means football, men’s basketball, or women’s basketball played at the collegiate level for which minimum eligibility requirements for participation by a student athlete are established.

(4) ‘Intercollegiate sport gross revenue’ means any revenue generated from the following sources:

(a) use of the commercial value of a student athlete’s name, image, or likeness;

(b) ticket sales;

(c) television rights;

(d) merchandise; or

(e) broadcasting licensing agreements.

(5) ‘Participating institution’ means any public institution of higher learning in this State that participates in intercollegiate athletic competition as a member institution of the National Collegiate Athletic Association at the Division I level and that generates a total revenue of at least fifty million dollars per year.

(6) ‘Student athlete’ means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in an intercollegiate sport, including a redshirt individual. If any individual is permanently ineligible to participate in a particular intercollegiate sport, then the individual is not a student athlete for the purposes of that sport.

Section 59-101-910. (A) The governing body of every participating institution in this State shall authorize the participating institution’s athletic director to use monies generated from the intercollegiate sport gross revenue to award stipends annually to each student athlete who participates in an intercollegiate sport and maintains good academic standing during the previous academic year, including the student athlete’s senior year in high school.

(B) All stipends awarded shall be determined by the total number of hours the student athlete spends associated with the intercollegiate sport multiplied by the hourly rate established by the participating institution for a work study program.

(C) All stipends awarded under this section shall be in addition to any scholarship, including the cost of attendance or financial aid.

(D) If a student athlete fails to maintain good academic standing for the previous academic year, then a stipend will not be awarded for that year. The student athlete will not be awarded a stipend unless and until good academic standing is re-established.

Section 59-101-920. A student athlete who participates in more than one sport may only receive one stipend.

Section 59-101-930. All stipends awarded to student athletes pursuant to this article are financial aid for educational purposes and are not income for state income tax purposes.

Section 59-101-940. Each participating institution that awards stipends pursuant to this article must provide a complete accounting of the stipends awarded to the Commission on Higher Education within sixty days after the stipends are awarded.

ARTICLE 10

Student Athlete Trust Fund

Section 59-101-1000. For the purposes of this article:

(1) ‘Athletic director’ means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered programs for male and female students, the athletic program for males and the athletic program for females, as appropriate.

(2) ‘Good academic standing’ means a cumulative grade point average of 2.00 or higher.

(3) ‘Intercollegiate sport’ means football, men’s basketball, or women’s basketball played at the collegiate level for which minimum eligibility requirements for participation by a student athlete are established.

(4) ‘Intercollegiate sport gross revenue’ means any revenue generated from the following sources:

(a) use of the commercial value of a student athlete’s name, image, or likeness;

(b) ticket sales;

(c) television rights;

(d) merchandise; or

(e) broadcasting licensing agreements.

(5) ‘Participating institution’ means any public institution of higher learning in this State that participates in intercollegiate athletic competition as a member institution of the National Collegiate Athletic Association at the Division I level and that generates a total revenue of at least fifty million dollars per year.

(6) ‘Student athlete’ means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in an intercollegiate sport, including a redshirt individual. If any individual is permanently ineligible to participate in a particular intercollegiate sport, then the individual is not a student athlete for the purposes of that sport.

Section 59-101-1010. There is established the Student Athlete Trust Fund. The governing body of every participating institution in this State shall create a trust fund and fund the trust with a percentage of the intercollegiate sport gross revenue. Earnings and interest on this fund must be credited to it, and any balance at the end of the fiscal year carries forward to the fund in the succeeding fiscal year.

Section 59-101-1020. (A) For each year that a student athlete maintains good academic standing, five thousand dollars will be deposited into the fund on his behalf. The total trust fund amount may not exceed twenty-five thousand dollars per student athlete.

(B) After the fulfillment of all academic requirements for graduation and the completion of a state-approved financial literacy course by a student athlete, his participating institution shall provide a one-time payment to the student athlete in the full amount deposited on his behalf into the fund. Payments must be made thirty days after graduation.

(C) All trust fund payments are awarded regardless of additional scholarships or financial aid received.

(D) If a student athlete fails to maintain good academic standing for the previous academic year, then no monies will be deposited into the trust on his behalf for that year. No monies will be deposited into the trust unless and until good academic standing is re-established.

(E) Early withdrawals from the fund are strictly prohibited, and a student athlete may not assign, borrow, pledge as collateral, or use these funds in any way until all requirements are fulfilled pursuant to subsection (B).

Section 59-101-1030. A student athlete who participates in more than one sport may only qualify for one payment not to exceed twenty-five thousand dollars.

Section 59-101-1040. All payments to student athletes pursuant to this article are financial aid for educational purposes and are not income for state income tax purposes.

Section 59-101-1050. Each participating institution that remits payment pursuant to this article must provide a complete accounting of the payments to the Commission on Higher Education within sixty days after the payments are made.”

SECTION 3. Section 59-102-20(1) of the 1976 Code is amended to read:

“(1) ‘Agency contract’ means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract; ~~or~~ an endorsement contract; or a name, image, or likeness contract, as defined in Section 59-157-10.”

SECTION 4. This act takes effect on January 1, 2022.

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