**South Carolina General Assembly**

125th Session, 2023-2024

**A207, R226, H4957**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Hiott, Erickson, G.M. Smith, Hayes, McGinnis, Rose, Elliott, Alexander, Schuessler, Calhoon, M.M. Smith, Davis, T. Moore, B. Newton, Neese, Oremus, Hixon, Taylor, Guest, Sessions, Guffey, Ballentine, Pope, Willis, Bannister, Kirby, Henegan, Hartnett, Williams, Gilliard and Rivers

Companion/Similar bill(s): 993

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Introduced in the House on January 25, 2024

Introduced in the Senate on February 15, 2024

Last Amended on May 8, 2024

Currently residing in the House

Governor's Action: May 21, 2024, Signed

Summary: Intercollegiate athlete name, image, and likeness compensation

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/25/2024 House Introduced and read first time (House Journal‑page 46)

 1/25/2024 House Referred to Committee on **Education and Public Works** (House Journal‑page 46)

 2/1/2024 House Member(s) request name added as sponsor: Elliott,
 Alexander

 2/7/2024 House Member(s) request name added as sponsor:
 Schuessler, Calhoon, M.M. Smith, Davis, T.
 Moore, B. Newton, Neese, Oremus, Hixon, Taylor

 2/7/2024 House Committee report: Favorable **Education and Public Works** (House Journal‑page 2)

 2/8/2024 House Member(s) request name added as sponsor: Guest,
 Sessions, Guffey, Ballentine

 2/8/2024 Scrivener's error corrected

 2/8/2024 House Debate adjourned until Tues. 2-13-24 (House Journal‑page 10)

 2/8/2024 House Requests for debate-Rep(s). Hiott, Taylor, B. Newton, Felder, McCravy, Carter, Pope, Guffey, Sessions, Nutt, Hayes, B.L. Cox, M.M. Smith, Hixon, Blackwell, Oremus, Forrest, Hart, Robbins, Gilliam, Haddon, Sandifer, Vaughan (House Journal‑page 10)

 2/13/2024 House Member(s) request name added as sponsor: Pope,
 Willis, Bannister

 2/14/2024 House Member(s) request name added as sponsor: Kirby,
 Henegan, Hartnett, Williams, Gilliard, Rivers

 2/14/2024 House Read second time (House Journal‑page 20)

 2/14/2024 House Roll call Yeas-113 Nays-0 (House Journal‑page 22)

 2/15/2024 House Read third time and sent to Senate (House Journal‑page 28)

 2/15/2024 Senate Introduced and read first time (Senate Journal‑page 5)

 2/15/2024 Senate Referred to Committee on **Education** (Senate Journal‑page 5)

 2/28/2024 Senate Committee report: Favorable with amendment **Education** (Senate Journal‑page 20)

 3/1/2024 Scrivener's error corrected

 4/22/2024 Scrivener's error corrected

 4/25/2024 Senate Committee Amendment Adopted (Senate Journal‑page 20)

 4/25/2024 Senate Amended (Senate Journal‑page 20)

 4/25/2024 Senate Read second time (Senate Journal‑page 20)

 5/1/2024 Scrivener's error corrected

 5/7/2024 Senate Amended (Senate Journal‑page 29)

 5/8/2024 Scrivener's error corrected

 5/8/2024 Senate Amended (Senate Journal‑page 40)

 5/8/2024 Senate Read third time and returned to House with amendments (Senate Journal‑page 40)

 5/8/2024 Senate Roll call Ayes-26 Nays-16 (Senate Journal‑page 40)

 5/9/2024 House Concurred in Senate amendment and enrolled (House Journal‑page 16)

 5/9/2024 House Roll call Yeas-98 Nays-0 (House Journal‑page 18)

 5/15/2024 Ratified R 226

 5/21/2024 Signed By Governor

 5/30/2024 Effective date 05/21/24

 5/30/2024 Act No. 207

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**VERSIONS OF THIS BILL**

[01/25/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240125.docx)

[02/07/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240207.docx)

[02/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240208.docx)

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[04/26/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240426.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240501.docx)

[05/07/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240507.docx)

[05/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240508.docx)

[05/08/2024-A](https://www.scstatehouse.gov/sess125_2023-2024/prever/4957_20240508a.docx)

(A207, R226, H4957)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 59‑158‑10, RELATING TO DEFINITIONS CONCERNING INTERCOLLEGIATE ATHLETES’ COMPENSATION FOR NAME, IMAGE, and LIKENESS, SO AS TO REVISE SEVERAL DEFINITIONS; BY AMENDING SECTION 59‑158‑20, RELATING TO THE AUTHORIZATION OF COMPENSATION FOR USE OF AN INTERCOLLEGIATE ATHLETE’S NAME, IMAGE, and LIKENESS, SO AS TO DELETE EXISTING LANGUAGE AND PROVIDE INSTITUTIONS OF HIGHER LEARNING AND CERTAIN AGENTS OF THE INSTITUTIONS MAY ENGAGE IN CERTAIN ACTIONS THAT MAY ENABLE INTERCOLLEGIATE ATHLETES TO EARN COMPENSATION FOR USE OF THE NAME, IMAGE, and LIKENESS OF THE ATHLETE, AMONG OTHER THINGS; BY AMENDING SECTION 59‑158‑30, RELATING TO THE EFFECTS OF NAME, IMAGE, AND LIKENESS COMPENSATION ON GRANT‑IN‑AID OR ATHLETIC ELIGIBILITY, SO AS TO DELETE EXISTING LANGUAGE AND PROVIDE NAME, IMAGE, and LIKENESS CONTRACTS MAY NOT EXTEND BEYOND THE INTERCOLLEGIATE ATHLETE'S ELIGIBILITY TO PARTICIPATE IN AN INTERCOLLEGIATE ATHLETICS PROGRAM AT AN INSTITUTION OF HIGHER LEARNING; BY AMENDING SECTION 59‑158‑40, RELATING TO ALLOWED AND PROHIBITED ACTIONS CONCERNING INTERCOLLEGIATE ATHLETES’ NAME, IMAGE, AND LIKENESS‑RELATED MATTERS, SO AS TO PROVIDE LIMITATIONS ON LIABILITY FOR INSTITUTION OF HIGHER LEARNING EMPLOYEES FOR DAMAGES RESULTING FROM CERTAIN ROUTINE DECISIONS MADE IN INTERCOLLEGIATE ATHLETICS, AND TO PROHIBIT CERTAIN CONDUCT BY ATHLETIC ASSOCIATIONS, ATHLETIC CONFERENCES, OR OTHER GROUPS WITH AUTHORITY OVER INTERCOLLEGIATE ATHLETIC PROGRAMS AT PUBLIC INSTITUTIONS OF HIGHER LEARNING, AMONG OTHER THINGS; BY AMENDING SECTION 59‑158‑50, RELATING TO GOOD ACADEMIC STANDING REQUIRED FOR PARTICIPATION IN NAME, IMAGE, AND LIKENESS ACTIVITIES, SO AS TO DELETE EXISTING PROVISIONS AND PROVIDE CERTAIN MATTERS CONCERNING NAME, IMAGE, AND LIKENESS AGREEMENTS MAY NOT BE CONSIDERED PUBLIC RECORDS SUBJECT TO AN EXCEPTION AND MAY NOT BE DISCLOSED TO CERTAIN ENTITIES; BY AMENDING SECTION 59‑158‑60, RELATING TO DISCLOSURE OF NAME, IMAGE, and LIKENESS CONTRACTS AND THIRD‑PARTY ADMINISTRATORS, SO AS TO DELETE EXISTING LANGUAGE AND PROVIDE FOR THE RESOLUTION OF CONFLICTS BETWEEN CERTAIN PROVISIONS OF THIS ACT AND PROVISIONS IN THE UNIFORM ATHLETE AGENTS ACT, AND TO PROVIDE ATHLETE AGENTS SHALL COMPLY WITH CERTAIN FEDERAL REQUIREMENTS; BY AMENDING SECTION 59‑102‑20, RELATING TO DEFINITIONS IN THE UNIFORM ATHLETE AGENTS ACT, SO AS TO REVISE THE DEFINITION OF “ATHLETE AGENT” TO EXEMPT INSTITUTIONS OF HIGHER LEARNING; BY AMENDING SECTION 59‑102‑100, RELATING TO AGENCY CONTRACTS, SO AS TO REVISE COMPENSATION PROVISIONS; BY REPEALING SECTION 59‑158‑70 RELATING TO DISCLOSURES AND LIMITATIONS IN NAME, IMAGE, and LIKENESS CONTRACTS AND REVOCATION PERIODS FOR SUCH CONTRACTS; AND BY REPEALING SECTION 59‑158‑80 RELATING TO GOVERNING LAW AND FEDERAL COMPLIANCE CONTRACTS.

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

Definitions

SECTION 1. Section 59‑158‑10 of the S.C. Code is amended to read:

 Section 59‑158‑10. For the purposes of this chapter:

 (1) “Athlete agent” means a person who is registered with the Department of Consumer Affairs pursuant to Section 59‑102‑60 or Section 59‑102‑80. If an athlete agent is an attorney, then he must also be a member in good standing of a state bar association.

 (2) “Compensation” means any remuneration, in cash or in kind, whether provided at the time or at any subsequent date, to an intercollegiate athlete. “Compensation” does not mean any grant, scholarship, fellowship, tuition assistance, or other form of financial aid provided to a student for pursuing a post‑secondary education.

 (3) “Institution of higher learning” means any post‑secondary educational institution, including a technical or comprehensive educational institution.

 (4) “Intercollegiate athlete” means an individual who has graduated from high school that engages in, is eligible to engage in, or may be eligible in the future to engage in an intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, then the individual is not an intercollegiate athlete for the purposes of that sport.

 (5) “Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by an intercollegiate athlete are established by a national association that promotes or regulates collegiate athletics.

 (6) “Name, image, or likeness activities”, “name, image, or likeness contract”, “NIL activities”, or “NIL contract” means an agreement in which an intercollegiate 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.

 (7) “Third party” means, with respect to an intercollegiate athlete, any entity other than the institution of higher learning in which the intercollegiate athlete is enrolled.

NIL agreements, institutional facilitation and compensation, prohibited acts

SECTION 2. Section 59‑158‑20 of the S.C. Code is amended to read:

 Section 59‑158‑20. (A) An institution of higher learning or any officer, trustee, director, or employee may directly or through an agreement with a third party, identify, create, solicit, facilitate, and otherwise enable opportunities for a currently enrolled intercollegiate athlete to earn compensation for the use of the intercollegiate athlete’s name, image, or likeness. An institution of higher learning may grant permission to intercollegiate athletes to use its trademarks and facilities.

 (B) An institution of higher learning may not receive compensation or fees directly from an intercollegiate athlete related to the facilitation of NIL.

 (C) No appropriated funds of an institution of higher learning may be used to pay an intercollegiate athlete compensation for the use of their name, image, and likeness.

 (D) Compensation earned by an intercollegiate athlete for the use of his name, image, or likeness must represent payment for the use of his name, image, or likeness, independent of, rather than as payment for, his athletic participation or performance unless otherwise permitted or authorized by a collegiate athletic association and institution of higher learning policy, a court order, or a settlement agreement.

Extension of NIL agreements beyond participation eligibility prohibited

SECTION 3. Section 59‑158‑30 of the S.C. Code is amended to read:

 Section 59‑158‑30. A name, image, or likeness contract with an intercollegiate athlete may not extend beyond their eligibility to participate in an intercollegiate athletics program at an institution of higher learning.

Institutional liability protections, athletic associations and conferences

SECTION 4. Section 59‑158‑40 of the S.C. Code is amended to read:

 Section 59‑158‑40. (A)(1) An institution of higher learning may prohibit an intercollegiate athlete from using his name, image, or likeness for compensation if the proposed use of his name, image, or likeness conflicts with institutional values as defined by the institution of higher learning.

 (2) An intercollegiate athlete may not earn compensation for the use of his name, image, or likeness for the endorsement of tobacco, alcohol, illegal substances or activities, banned athletic substances, or gambling including, but not limited to, sports betting.

 (B) An institution of higher learning or any officers, trustees, directors, employees, including athletics coaching staff, may not be liable for any damages to an intercollegiate athlete’s ability to earn compensation for the use of the intercollegiate athlete’s name, image, or likeness resulting from decisions or actions routinely taken in the course of intercollegiate athletics. However, nothing in this section should be construed to bar any common law claims by intercollegiate athletes of fraud, fraudulent misrepresentation, or intentional misrepresentation.

 (C) An athletic association, an athletic conference, or any other group or organization with authority over an intercollegiate athletic program at an institution of higher learning to which this chapter applies may not:

 (1) enforce a contract term, a rule, a regulation, a standard, a bylaw, guidance, or any other requirement that prohibits the institution from participating in intercollegiate sports or otherwise penalizes the institution, the institution’s intercollegiate athletic program, or intercollegiate athletes for performing, participating in, or allowing an activity required or authorized by this chapter; or

 (2) prevent an institution of higher learning from establishing agreements with a third‑party entity to act on the institution’s behalf to identify, facilitate, enable, or support an intercollegiate athlete’s name, image, or likeness activities.

Disclosure of NIL agreement terms, limitations

SECTION 5. Section 59‑158‑50 of the S.C. Code is amended to read:

 Section 59‑158‑50. (A) If an institution of higher learning collects, retains, or maintains copies or summaries of the terms of an intercollegiate athlete’s name, image, or likeness contract or proposed contract detailing compensation to the intercollegiate athlete for the use of the intercollegiate athlete’s name, image, or likeness or athletic reputation, the documentation may not be considered a public record under Section 30‑4‑20(C) unless they are a party.

 (B) An institution of higher learning may not be compelled to disclose the information to a collegiate athletic association, athletic conference, or other group or organization with authority over an intercollegiate athletic program at an institution of higher learning.

Interpretation of chapter, athlete agent compliance with federal law

SECTION 6. Section 59‑158‑60 of the S.C. Code is amended to read:

 Section 59‑158‑60.  (A) If there is a conflict between the provisions of this chapter and those of Chapter 102, then the provisions of this chapter govern. An athlete agent representing an intercollegiate athlete in a transaction authorized pursuant to this chapter also shall comply with all provisions contained in Chapter 102 that do not conflict with the provisions of this chapter.

 (B) An athlete agent shall comply with the federal “Sports Agent Responsibility and Trust Act”, 15 U.S.C. Sections 7801‑7807.

Athlete agents, exemption for institutions of higher learning

SECTION 7. Section 59‑102‑20(2)(b) of the S.C. Code is amended to read:

 (b) does not include an individual who:

 (i) acts solely on behalf of a professional sports team or organization;

 (ii) is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

 (A) also recruits or solicits the athlete to enter into an agency contract;

 (B) also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or

 (C) receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete; or

 (iii) is an institution of higher learning or an employee or contractor employed by an institution of higher learning.

Athlete agent compensation for NIL agreements

SECTION 8. Section 59‑102‑100(H) of the S.C. Code is amended to read:

 (H) An agency contract for name, image, or likeness activities, as defined in Chapter 158, Title 59, may provide for athlete agent compensation but may not exceed twenty percent of the name, image, or likeness contract.

Repealed

SECTION 9. Sections 59‑158‑70 and 59‑158‑80 of the S.C. Code are repealed.

Time effective

SECTION 10. This act takes effect upon approval by the Governor.

Ratified the 15th day of May, 2024.

Approved the 21st day of May, 2024.

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