

[First Reprint]

SENATE, No. 971

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

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SYNOPSIS

“New Jersey Fair Play Act”; allows collegiate student-athletes to earn compensation for use of name, image, or likeness.

CURRENT VERSION OF TEXT

As reported by the Assembly Higher Education Committee on March 5, 2020, with amendments.

(Sponsorship Updated As Of: 7/30/2020)

1 AN ACT concerning student-athletes at certain institutions of higher
2 education and supplementing chapter 3B of Title 18A of the New
3 Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the “New Jersey
9 Fair Play Act.”

10
11 2. a. A four-year institution of higher education shall not:

12 (1) uphold any rule, requirement, standard, or other limitation
13 that prevents a student of that institution participating in
14 intercollegiate athletics from earning compensation as a result of
15 the use of the student’s name, image, or likeness.

16 Except as otherwise provided pursuant to subsection b. of this
17 section, earning compensation from the use of a student’s name,
18 image, or likeness shall not affect the student’s institutional
19 scholarship eligibility. An institutional scholarship shall not be
20 considered compensation for the purposes of this act and a
21 scholarship shall not be revoked as a result of a student earning
22 compensation or obtaining professional representation;

23 (2) provide a prospective student-athlete with compensation in
24 relation to the student-athlete’s name, image, or likeness; or

25 (3) prevent a student participating in intercollegiate athletics
26 from obtaining professional representation in relation to contracts or
27 legal matters including, but not limited to, representation provided
28 by athlete agents or legal representation provided by attorneys.

29 Legal representation obtained by student-athletes shall be from
30 attorneys licensed by the State. Athlete agents representing student-
31 athletes shall comply with the federal “Sports Agent Responsibility
32 and Trust Act” (15 U.S.C. s.7801 et seq.) in their relationship with
33 student-athletes.

34 b. Notwithstanding the provisions of subsection a. of this
35 section to the contrary, a student participating in intercollegiate
36 athletics shall be prohibited from earning compensation as a result
37 of the use of the student’s name, image, or likeness in connection
38 with any person, company, or organization related to or associated
39 with the development, production, distribution, wholesaling, or
40 retailing of: adult entertainment products and services; alcohol
41 products; casinos and gambling, including sports betting, the
42 lottery, and betting in connection with video games, on-line games,
43 and mobile devices; tobacco and electronic smoking products and
44 devices; ¹prescription¹ pharmaceuticals; a controlled dangerous
45 substance; and weapons, including firearms and ammunition.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHI committee amendments adopted March 5, 2020.

1 Earning compensation from the use of a student's name, image,
2 or likeness in connection with products and services listed pursuant
3 to this subsection shall result in the revocation of the student's
4 institutional scholarship eligibility.

5
6 3. A four-year institution of higher education ¹ shall not be a
7 member of any athletic association, conference, or other group or
8 organization with authority over intercollegiate athletics including,
9 but not limited to, the National Collegiate Athletic Association,
10 that:

11 a. prohibits a student-athlete participating in intercollegiate
12 athletics from earning compensation as a result of the use of the
13 student's name, image, or likeness;

14 b. prohibits an institution of higher education from
15 participating in intercollegiate athletics as a result of the
16 compensation of a student-athlete for the use of the student's name,
17 image, or likeness;

18 c. provides a prospective student-athlete with compensation in
19 relation to the student-athlete's name, image, or likeness; or

20 d. prevents a student participating in intercollegiate athletics
21 from obtaining professional representation in relation to contracts or
22 legal matters including, but not limited to, representation provided
23 by athlete agents or legal representation provided by attorneys **], an**
24 entity whose purpose includes supporting or benefitting the
25 institution or its athletic programs, or any officer, director, or
26 employee of the institution or entity, shall not compensate or cause
27 compensation to be directed to a current or prospective student-
28 athlete participating in intercollegiate athletics for use of the
29 student's name, image, or likeness¹.

30
31 4. a. A student-athlete who enters into a contract providing
32 compensation to the student-athlete for use of his name, image, or
33 likeness shall disclose the contract to an official of the four-year
34 institution of higher education, to be designated by the institution.

35 b. A student-athlete shall not enter into a contract providing
36 compensation to the student-athlete for use of his name, image, or
37 likeness if a provision of the contract:

38 (1) conflicts with a provision of the student-athlete's team
39 contract; or

40 (2) conflicts with the provisions of subsection b. of section 2 of
41 this act.

42 c. An institutional team contract shall not prevent a student-
43 athlete from using the athlete's name, image, or likeness for a
44 commercial purpose when the athlete is not engaged in official team
45 activities.

46 d. An institutional team contract shall allow the institution,
47 athletic association, conference, or other group or organization with
48 authority over intercollegiate athletics to use the athlete's name,

1 image, or likeness for advertising and marketing purposes without
2 additional compensation paid to the student-athlete.

3 e. An institution asserting a conflict pursuant to subsection b.
4 of this section shall disclose to the student-athlete and to the
5 student-athlete's professional representation the relevant contractual
6 provisions that are in conflict.

7
8 5. This act shall take effect immediately and shall first be
9 applicable in the fifth academic year following the date of
10 enactment.