

House Amendments to Senate Bill No. 2313

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

50 SECTION 1. This act shall be known, and may be cited as the
51 "Mississippi Intercollegiate Athletics Compensation Rights Act."

52 SECTION 2. As used in this chapter, the following terms
53 shall have the following meanings unless the context clearly
54 indicates otherwise:

55 (a) "Compensation" means any form of payment or
56 remuneration, including, but not limited to, cash, gifts, in-kind
57 items of value, social media compensation, payments for licensing
58 or use of publicity rights, payments for other intellectual or
59 intangible property rights under federal or state law and any
60 other form of payment or remuneration, except as excluded under
61 the provisions of this act. For the purposes of this act,
62 "compensation" shall not mean or include the following:

63 (i) Tuition, room, board, books, fees and personal
64 expenses that a postsecondary educational institution provides a
65 student-athlete in accordance with the rules of the athletic

66 association or conference of which the postsecondary educational
67 institution is a member;

68 (ii) Federal Pell Grants and other state and
69 federal grants or scholarships unrelated to, and not awarded
70 because of a student-athlete's participation in intercollegiate
71 athletics or sports competition;

72 (iii) Any other financial aid, benefits or awards
73 that a postsecondary educational institution provides a
74 student-athlete in accordance with the rules of the athletic
75 association or conference of which the postsecondary educational
76 institution is a member; or

77 (iv) The payment of wages and benefits to a
78 student-athlete for work actually performed, but not for athletic
79 ability or participation in intercollegiate athletics, at a rate
80 commensurate with the prevailing rate for similar work in the
81 locality of the student-athlete's postsecondary educational
82 institution.

83 (b) "Image" means a picture of the student-athlete.

84 (c) "Intercollegiate athletics program" means an
85 intercollegiate athletics program played at the collegiate level
86 for which eligibility requirements for participation by a
87 student-athlete are established by a national association for the
88 promotion or regulation of collegiate athletics.

89 (d) "Likeness" means a physical, digital or other
90 depiction or representation of a student-athlete.

91 (e) "Name" means the first or last name, or the
92 nickname, of a student-athlete when used in a context that
93 reasonably identifies the student-athlete with particularity.

94 (f) "Name, image and likeness agreement" means a
95 contract or similar arrangement between a student-athlete and a
96 third-party licensee regarding the commercial use of the name,
97 image or likeness of the student-athlete.

98 (g) "Publicity right" means any right that is:

99 (i) Licensed under a name, image and likeness
100 agreement; or

101 (ii) Recognized under a federal or state law that
102 permits an individual to control and profit from the commercial
103 use of the name, image or likeness of the individual.

104 (h) "Postsecondary educational institution" means a
105 public university or community college or private university or
106 college.

107 (i) "Social media compensation" means all forms of
108 payment for engagement on social media received by a
109 student-athlete as a result of the use of that student-athlete's
110 name, image or likeness.

111 (j) "Student-athlete" means an individual who engages
112 in, is eligible to engage in, or may be eligible in the future to
113 engage in, intercollegiate athletics program at a postsecondary
114 educational institution. If an individual is permanently
115 ineligible to participate in a particular intercollegiate sport,

116 the individual is not a student-athlete for purposes of that
117 sport.

118 (k) "Third party licensee" means any individual or
119 entity that licenses publicity rights or the use of name, image or
120 likeness from any prospective or current student-athlete or group
121 of student-athletes. The term "third-party licensee" shall not
122 include any national association for the promotion or regulation
123 of collegiate athletics, athletics conference or postsecondary
124 educational institution.

125 **SECTION 3.** (1) Except as provided in Section 4 of this act,
126 a student-athlete may:

127 (a) Earn compensation, commensurate with market value,
128 for the use of the name, image or likeness of the student-athlete
129 while enrolled at a postsecondary educational institution; and

130 (b) Obtain and retain a certified agent for any matter
131 or activity relating to such compensation.

132 (2) No student-athlete may earn compensation in exchange for
133 the student-athlete's athletic ability or participation in
134 intercollegiate athletics or sports competition.

135 (3) Notwithstanding any other provision of applicable law or
136 agreement to the contrary, a student-athlete shall not be deemed
137 an employee or independent contractor of an association, a
138 conference, or a postsecondary educational institution based on
139 the student-athlete's participation in an intercollegiate
140 athletics program.

141 **SECTION 4.** (1) (a) Except as provided for under this act,
142 a postsecondary educational institution shall not uphold any
143 contract, rule, regulation, standard, or other requirement that
144 prevents a student-athlete of that institution from earning
145 compensation as a result of the use of the student's name, image
146 or likeness. Any such contract, rule, regulation, standard or
147 other requirement shall be void and unenforceable against the
148 postsecondary educational institution or the student-athlete.
149 Compensation from the use of a student-athlete name, image or
150 likeness may not affect the student-athlete's scholarship
151 eligibility, grant-in-aid or other financial aid, awards or
152 benefits or the student-athlete's intercollegiate athletic
153 eligibility. Nothing in this act is intended to alter any state
154 and federal laws or regulations regarding the award of financial
155 aid at postsecondary educational institutions.

156 (b) Except as provided for in this act, an athletic
157 association, conference or other group or organization with
158 authority over intercollegiate athletic programs, including, but
159 not limited to, the National Collegiate Athletic Association
160 (NCAA) and the National Junior College Athletic Association, shall
161 not prevent or otherwise enforce a contract, rule, regulation,
162 standard or other requirement that prevents a student-athlete of a
163 postsecondary educational institution from earning compensation as
164 a result of the use of the student-athlete's name, image or
165 likeness. To protect the integrity of its educational mission and
166 intercollegiate athletics program, a postsecondary educational

167 institution may impose reasonable limitations on the dates and
168 time that a student-athlete may participate in endorsement,
169 promotional, social media, or other activities related to the
170 license or use of the student-athlete's name, image and likeness.
171 Nothing in this act shall restrict a postsecondary educational
172 institution from exercising its sole discretion to control the
173 authorized use of its trademarks or logos or to determine a
174 student-athlete's apparel, gear or other wearables during an
175 intercollegiate athletics competition or university-sponsored
176 event.

177 (c) An athletic association, conference or other group
178 or organization with authority over intercollegiate athletics
179 programs, including, but not limited to, the National Collegiate
180 Athletic Association and the National Junior College Athletic
181 Association, shall not prevent or otherwise enforce a contract,
182 rule, regulation, standard or other requirement that prevents a
183 postsecondary educational institution from participating in an
184 intercollegiate athletics program as a result of the compensation
185 of a student-athlete for the use of the student-athlete's name,
186 image, or likeness.

187 (2) A postsecondary educational institution, athletic
188 association, conference or other group or organization with
189 authority over intercollegiate athletics programs, including, but
190 not limited to, the National Collegiate Athletic Association and
191 the National Junior College Athletic Association, shall not,
192 directly or indirectly:

193 (a) Enter into, or offer to enter into, a name, image
194 and likeness agreement with a prospective or current
195 student-athlete; or

196 (b) Provide a prospective or current student-athlete or
197 the student-athlete's family compensation in relation to the use
198 of the student-athlete's name, image or likeness.

199 (3) (a) A postsecondary educational institution, athletic
200 association, conference or other group or organization with
201 authority over intercollegiate athletics programs, including, but
202 not limited to, the National Collegiate Athletic Association and
203 the National Junior College Athletic Association shall not prevent
204 a student-athlete from obtaining professional representation in
205 relation to name, image or likeness, or to secure a name, image
206 and likeness agreement, including, but not limited to,
207 representation provided by athlete agents or legal representation
208 provided by attorneys.

209 (b) Professional representation obtained by
210 student-athletes must be from persons registered as athlete agents
211 as provided in Section 73-42-1 et seq., of the Uniform Athlete
212 Agent Law. Attorneys who provide legal representation to
213 student-athletes must be licensed to practice law in the State of
214 Mississippi and in good standing with The Mississippi Bar.

215 (c) Athlete agents representing student-athletes shall
216 comply with the Uniform Athlete Agents Law, established under
217 Section 73-42-1, et seq., and the federal Sports Agent

218 Responsibility and Trust Act, established under 15 USCS Sections
219 7801-7807, in their relationships with student-athletes.

220 (4) A grant-in-aid, including cost of attendance, and other
221 permissible financial aid, awards or benefits from the
222 postsecondary educational institution in which a student-athlete
223 is enrolled shall not be revoked, reduced, nor the terms and
224 conditions altered, as a result of a student-athlete earning
225 compensation or obtaining professional or legal representation
226 pursuant to this act.

227 (5) A student-athlete who enters into a name, image and
228 likeness agreement for compensation shall disclose the contract to
229 a designated official of the postsecondary educational institution
230 in which the student is enrolled. The disclosure shall be made
231 within three (3) calendar days of the execution of the name, image
232 and likeness agreement, or three (3) calendar days before the next
233 scheduled intercollegiate athletics competition in which the
234 student-athlete may participate, whichever occurs earlier in time.
235 The postsecondary educational institution shall designate the
236 official to whom the student-athlete must disclose these
237 contracts.

238 (6) A third-party licensee may not enter into, or offer to
239 enter into, a name, image and likeness agreement with a
240 student-athlete or otherwise compensate a student-athlete for the
241 use of the student-athlete's name, image and likeness rights if a
242 provision of the name, image and likeness agreement or the use of
243 the student-athlete's name, image and likeness rights conflicts

244 with a provision of a contract, rule, regulation, standard or
245 other requirement of the postsecondary educational institution
246 unless such contract or use is expressly approved in writing by
247 the postsecondary educational institution.

248 (7) (a) No postsecondary educational institution, booster,
249 third-party licensee, or any other individual or entity shall
250 provide a prospective or current student-athlete compensation or
251 enter into a name, image and likeness agreement as an inducement
252 for the student-athlete to attend or enroll in a specific
253 institution or group of institutions.

254 (b) No student-athlete shall enter into a name, image
255 and likeness agreement or receive compensation from a third-party
256 licensee relating to the name, image or likeness of the
257 student-athlete:

258 (i) Before the date on which the student-athlete
259 enrolls at a postsecondary educational institution; or

260 (ii) For the endorsement or promotion of gambling,
261 sports betting, marijuana, tobacco or alcohol products,
262 performance enhancing supplements, adult entertainment or any
263 other product or service that is reasonably considered to be
264 inconsistent with the values or mission of a postsecondary
265 educational institution.

266 (8) Nothing in this act shall be interpreted to modify any
267 requirements or obligations imposed under Title IX of the
268 Education Amendments of 1972 (20 USCS Section 1681, et seq.).

269 **SECTION 5.** The following shall be codified as Section

270 93-19-17, Mississippi Code of 1972:

271 93-19-17. (1) All persons eighteen (18) years of age or
272 older, if not otherwise disqualified, or prohibited by law, shall
273 have the capacity to enter into binding contractual relationships
274 affecting the use of their name, image or likeness while
275 participating in intercollegiate sports as student-athletes.
276 Nothing in this section shall be construed to affect any contracts
277 entered into prior to the effective date of this act.

278 (2) In any legal action founded on a student-athlete name,
279 image or likeness contract entered into by a person eighteen (18)
280 years of age or older, the person may sue in his or her own name
281 as an adult and be sued in his or her own name as an adult and be
282 served with process as an adult.

283 (3) For purposes of this section:

284 (a) "Intercollegiate sport" means a sport played at the
285 collegiate level for which eligibility requirements for
286 participation by a student-athlete are established by a national
287 association for the promotion or regulation of collegiate
288 athletics; and

289 (b) "Student-athlete" means an individual who engages
290 in, is eligible to engage in, or may be eligible in the future to
291 engage in, any intercollegiate athletics program at a
292 postsecondary educational institution. If an individual is
293 permanently ineligible to participate in a particular
294 intercollegiate sport, the individual is not a student-athlete for
295 purposes of that sport.

296 **SECTION 6.** No postsecondary educational institution,
297 athletic association or conference shall be subject to a private
298 cause of action or any claim for damages of any kind under this
299 act, including, without limitation, a claim for unfair trade or
300 competition or tortious interference. No postsecondary
301 educational institution, athletic association or conference shall
302 be subject to a private cause of action or any claim for damages
303 related to its adoption, implementation or enforcement of any
304 contract, rule, regulation, standard or other requirement in
305 compliance with this act. This act is not intended to and shall
306 not waive or diminish any applicable defenses and immunities,
307 including, without limitation, sovereign immunity applicable to
308 postsecondary educational institutions. For purposes of this
309 section, the words "private cause of action or any claim for
310 damages of any kind" means any claim or action brought by any
311 person or current or former student-athlete who is not a party to
312 a name, image and likeness agreement or contract with the
313 postsecondary educational institution, athletic association,
314 conference or other group or organization with authority over
315 intercollegiate athletic programs. The words "private cause of
316 action or any claim for damages of any kind" shall not be
317 construed to include any claim or action by the student-athlete
318 that is engaged in a name, image and likeness agreement for
319 compensation.

320 **SECTION 7.** Section 73-42-3, Mississippi Code of 1972, is
321 amended as follows:

322 73-42-3. In this chapter:

323 (a) "Agency contract" means an agreement in which a
324 student-athlete authorizes a person to negotiate or solicit on
325 behalf of the student-athlete a professional-sports-services
326 contract, an endorsement contract, compensation for the use of the
327 student-athlete's name, image or likeness, or enrollment at any
328 educational institution that offers an athletic scholarship to the
329 student-athlete.

330 (b) "Athlete agent" means an individual who enters into
331 an agency contract with a student-athlete or, directly or
332 indirectly, recruits, induces or solicits a student-athlete to
333 enter into an agency contract. The term does not include a
334 spouse, parent, sibling, grandparent or guardian of the
335 student-athlete or an individual acting solely on behalf of a
336 professional sports team or professional sports organization. The
337 term includes an individual who represents to the public that the
338 individual is an athlete agent.

339 (c) "Athletic director" means an individual responsible
340 for administering the overall athletic program of an educational
341 institution or, if an educational institution has separately
342 administered athletic programs for male students and female
343 students, the athletic program for males or the athletic program
344 for females, as appropriate.

345 (d) "Contact" means a communication, direct or
346 indirect, written or oral, between an athlete agent and a

347 student-athlete, to recruit, induce or solicit the student-athlete
348 to enter into an agency contract.

349 (e) "Endorsement contract" means:

350 (i) An agreement under which a student-athlete is
351 employed or receives consideration or anything of value for the
352 student-athlete's publicity, reputation, following * * * or fame
353 obtained because of the student-athlete's athletic ability or
354 performance; and

355 (ii) An agreement under which a student-athlete
356 receives compensation, consideration or anything of value for the
357 use of the student-athlete's name, image or likeness.

358 (f) "Intercollegiate sport" means a sport played at the
359 collegiate level for which eligibility requirements for
360 participation by a student-athlete are established by a national
361 association for the promotion or regulation of collegiate
362 athletics.

363 (g) "Person" means an individual, corporation, business
364 trust, estate, trust, partnership, limited liability company,
365 association, joint venture, government; governmental subdivision,
366 agency or instrumentality; public corporation, or any other legal
367 or commercial entity.

368 (h) "Professional-sports-services contract" means an
369 agreement under which an individual is employed or agrees to
370 render services as a player on a professional sports team, with a
371 professional sports organization, or as a professional athlete.

372 (i) "Record" means information that is inscribed on a
373 tangible medium or that is stored in an electronic or other medium
374 and is retrievable in perceivable form.

375 (j) "Registration" means registration as an athlete
376 agent pursuant to this chapter.

377 (k) "State" means a state of the United States, the
378 District of Columbia, Puerto Rico, the United States Virgin
379 Islands, or any territory or insular possession subject to the
380 jurisdiction of the United States.

381 (l) "Student-athlete" means an individual who engages
382 in, is eligible to engage in, or may be eligible in the future to
383 engage in, a sport for a professional sports team or in any
384 intercollegiate sport at any educational institution. If an
385 individual is permanently ineligible to participate in a
386 particular intercollegiate sport, the individual is not a
387 student-athlete for purposes of that sport.

388 **SECTION 8.** This act shall take effect and be in force from
389 and after July 1, 2021, and shall stand repealed on June 30, 2021.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE "MISSISSIPPI INTERCOLLEGIATE ATHLETICS
2 COMPENSATION RIGHTS ACT"; TO DEFINE TERMINOLOGY; TO PROVIDE THAT A
3 STUDENT-ATHLETE MAY EARN COMPENSATION FOR THE USE OF HIS OR HER
4 NAME, IMAGE OR LIKENESS WHILE ENROLLED IN A POSTSECONDARY
5 INSTITUTION AND OBTAIN A CERTIFIED AGENT FOR MATTERS RELATING TO
6 THAT COMPENSATION; TO PROHIBIT STUDENT-ATHLETES FROM EARNING
7 COMPENSATION IN EXCHANGE FOR HIS OR HER ABILITY OR PARTICIPATION
8 IN INTERCOLLEGIATE ATHLETICS OR SPORTS COMPETITIONS; TO PROVIDE
9 THAT A STUDENT-ATHLETE SHALL NOT BE DEEMED AN EMPLOYEE OR
10 INDEPENDENT CONTRACTOR OF ANY ATHLETIC ORGANIZATIONAL ENTITY BASED

11 ON HIS OR HER PARTICIPATION IN AN INTERCOLLEGIATE ATHLETIC
12 PROGRAM; TO PROHIBIT POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM
13 UPHOLDING REQUIREMENTS THAT RESTRICT A STUDENT-ATHLETES ABILITY TO
14 RECEIVE COMPENSATION FOR THE STUDENT'S NAME, IMAGE OR LIKENESS; TO
15 PROHIBIT ATHLETIC ORGANIZATIONAL ENTITIES FROM INTERFERING WITH A
16 CONTRACT OR OTHER REQUIREMENTS THAT PREVENT A STUDENT-ATHLETE FROM
17 RECEIVING COMPENSATION FOR HIS OR HER NAME, IMAGE OR LIKENESS OR
18 PREVENT A POSTSECONDARY EDUCATIONAL INSTITUTION FROM PARTICIPATING
19 IN AN INTERCOLLEGIATE ATHLETIC PROGRAM AS A RESULT OF THE
20 STUDENT-ATHLETE RECEIVING COMPENSATION FOR HIS OR HER NAME, IMAGE
21 OR LIKENESS; TO ALLOW POSTSECONDARY EDUCATIONAL INSTITUTIONS TO
22 IMPOSE REASONABLE LIMITATIONS ON THE TIMES A STUDENT-ATHLETE MAY
23 PARTICIPATE IN CERTAIN PROMOTIONAL ACTIVITIES RELATED TO THE
24 LICENSE OR USE OF THE STUDENT'S NAME, IMAGE OR LIKENESS; TO
25 PROHIBIT POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM PREVENTING
26 STUDENT-ATHLETES FROM OBTAINING PROFESSIONAL REPRESENTATION; TO
27 REQUIRE PERSONS OBTAINED BY STUDENT-ATHLETES AS PROFESSIONAL
28 REPRESENTATIVES TO BE REGISTERED AS ATHLETE AGENTS AND ATTORNEYS
29 WHO PROVIDE LEGAL REPRESENTATION TO BE LICENSED BY THE MISSISSIPPI
30 BAR ASSOCIATION; TO REQUIRE STUDENT-ATHLETES TO DISCLOSE CONTRACTS
31 FOR COMPENSATION TO THE POSTSECONDARY EDUCATIONAL INSTITUTION OF
32 ENROLLMENT THE EARLIER OF THREE DAYS OF ITS EXECUTION OR THREE
33 DAYS OF THE NEXT COMPETITION; TO PROHIBIT CONFLICTS OF INTEREST
34 BETWEEN THIRD-PARTY LICENSEES AND STUDENT-ATHLETES; TO EXEMPT
35 POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM PRIVATE CAUSES OF
36 ACTION FOR UNFAIR TRADE OR TORTIOUS INTERFERENCE; TO DEFINE THE
37 TERM "PRIVATE CAUSE OF ACTION" TO PROVIDE A LEGAL RECOURSE TO
38 THOSE STUDENT-ATHLETES WHOSE NAMES, IMAGES AND LIKENESSES WERE
39 USED WITHOUT THEIR CONSENT; TO CREATE NEW SECTION 93-19-17,
40 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT QUALIFYING INDIVIDUALS
41 18 YEARS OF AGE AND OLDER SHALL HAVE THE CAPACITY TO ENTER INTO
42 BINDING CONTRACTS AFFECTING THEIR NAME, IMAGE AND LIKENESS WHILE
43 PARTICIPATING IN COLLEGIATE SPORTS AS STUDENT-ATHLETES; TO PROVIDE
44 THAT ANY LEGAL ACTION FOUNDED ON A STUDENT-ATHLETE'S NAME, IMAGE
45 AND LIKENESS BY A QUALIFYING STUDENT-ATHLETE MAY BE BOUGHT IN THE
46 STUDENT-ATHLETE'S OWN NAME; TO AMEND SECTION 73-42-3, MISSISSIPPI
47 CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR
48 RELATED PURPOSES.

HR26\SB2313A.J

Andrew Ketchings
Clerk of the House of Representatives