

By: Senator(s) Parks

To: Universities and
Colleges

SENATE BILL NO. 2690
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-97-103, MISSISSIPPI CODE OF 1972,
 2 TO CLARIFY THE DEFINITIONS OF CERTAIN TERMINOLOGY RELATED TO NAME,
 3 IMAGE AND LIKENESS AGREEMENTS FOR STUDENT-ATHLETES; TO AMEND
 4 SECTION 37-97-105, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
 5 ABILITY OF A STUDENT-ATHLETE TO EARN COMPENSATION FOR THE USE OF
 6 HIS OR HER PUBLICITY RIGHTS; TO AMEND SECTION 37-97-107,
 7 MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF
 8 POSTSECONDARY EDUCATIONAL INSTITUTIONS REGARDING RESTRICTIONS ON
 9 COMPENSATION FOR THE USE OF A STUDENT-ATHLETE'S PUBLICITY RIGHTS;
 10 TO FURTHER RESTRICT ASSOCIATIONS OR ORGANIZATIONS WITH AUTHORITY
 11 OVER INTERCOLLEGIATE ATHLETIC PROGRAMS FROM PENALIZING A
 12 POSTSECONDARY EDUCATIONAL INSTITUTION OR ITS INTERCOLLEGIATE
 13 ATHLETIC PROGRAM FOR COMPLIANCE WITH PROVISIONS OF THE MISSISSIPPI
 14 INTERCOLLEGIATE ATHLETICS COMPENSATION RIGHTS ACT; TO PERMIT
 15 POSTSECONDARY EDUCATIONAL INSTITUTIONS TO FACILITATE OPPORTUNITIES
 16 FOR STUDENT-ATHLETES TO ENGAGE THIRD PARTIES INTERESTED IN
 17 ENTERING INTO NAME, IMAGE AND LIKENESS AGREEMENTS; TO REMOVE THE
 18 PROHIBITION ON A STUDENT-ATHLETE ENTERING INTO A NAME, IMAGE AND
 19 LIKENESS AGREEMENT BEFORE ENROLLING AT A POSTSECONDARY EDUCATIONAL
 20 INSTITUTION; TO AMEND SECTION 73-42-19, MISSISSIPPI CODE OF 1972,
 21 TO REVISE THE REQUIRED WARNING TO STUDENT-ATHLETES IN AN AGENCY
 22 CONTRACT TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
 23 PURPOSES.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

25 **SECTION 1.** Section 37-97-103, Mississippi Code of 1972, is
 26 amended as follows:



27 37-97-103. (1) As used in this article, the following terms
28 shall have the following meanings unless the context clearly
29 indicates otherwise:

30 (a) "Compensation" means anything of value, monetary or
31 otherwise, including, but not limited to, cash, gifts, in-kind
32 items of value, social media compensation, payments for licensing
33 or use of publicity rights, payments for other intellectual or
34 intangible property rights under federal or state law, and any
35 other form of payment or remuneration, except as excluded under
36 this article.

37 For the purposes of this article, "compensation" shall not
38 mean or include the following:

39 (i) Tuition, room, board, books, fees and personal
40 expenses that a postsecondary educational institution provides a
41 student-athlete in accordance with the rules of the athletic
42 association or conference of which the postsecondary educational
43 institution is a member;

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

48 (iii) Any other financial aid, benefits or awards
49 that a postsecondary educational institution provides a
50 student-athlete in accordance with the rules of the athletic



51 association or conference of which the postsecondary educational
52 institution is a member; or

53 (iv) The payment of wages and benefits to a
54 student-athlete for work actually performed * * * for services
55 unrelated to a student-athlete's publicity rights or other
56 intellectual or intangible property rights of a student-athlete
57 under federal or state law.

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

59 (c) "Intercollegiate athletics program" means an
60 intercollegiate athletics program played at the collegiate level
61 for which eligibility requirements for participation by a
62 student-athlete are established by a national association for the
63 promotion or regulation of collegiate athletics.

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

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

69 (f) "Name, Image and Likeness Agreement" means a
70 contract or * * * other arrangement between a student-athlete and
71 a third-party * * * regarding the * * * use of the * * * publicity
72 of the student-athlete.

73 (g) "Publicity right" means any right * * *:



74 (i) * * * Associated with the name, image, * * *
75 likeness * * *, publicity, reputation, fame or personal following
76 of a student-athlete; or

77 (ii) Recognized under a federal or state law * * *
78 as permitting an individual to control and profit from the * * *
79 use of the name, image * * *, likeness, publicity, reputation,
80 fame or personal following of the individual.

81 (h) "Postsecondary educational institution" means a
82 public university or community college or private university or
83 college.

84 (i) "Social media compensation" means all forms of
85 payment for engagement on social media received by a
86 student-athlete as a result of the use of that
87 student-athlete's * * * publicity rights.

88 (j) "Student-athlete" means an individual who engages
89 in, is eligible to engage in, or may be eligible in the future to
90 engage in, intercollegiate athletics program at a postsecondary
91 educational institution, including, without limitation,
92 prospective student-athletes of an intercollegiate athletics
93 program. If an individual is permanently ineligible to
94 participate in a particular intercollegiate sport, the individual
95 is not a student-athlete for purposes of that sport.

96 (k) "Third party * * *" means any individual or entity
97 or group of the same, acting independently or collectively,
98 that * * * enters into an agreement for the publicity rights * * *



99 of a student-athlete or group of student-athletes. The term
100 "third party * * *" shall not include any national association for
101 the promotion or regulation of collegiate athletics, athletics
102 conference, or postsecondary educational institution.

103 **SECTION 2.** Section 37-97-105, Mississippi Code of 1972, is
104 amended as follows:

105 37-97-105. (1) Except as provided in Section 37-97-107, a
106 student-athlete may:

107 (a) Earn compensation, * * * for the use of * * *
108 publicity rights of the student-athlete * * *; and

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

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

114 (3) Notwithstanding any other provision of applicable law or
115 agreement to the contrary, a student-athlete shall not be deemed
116 an employee or independent contractor of an association, a
117 conference, or a postsecondary educational institution based on
118 the student-athlete's participation in an intercollegiate
119 athletics program.

120 **SECTION 3.** Section 37-97-107, Mississippi Code of 1972, is
121 amended as follows:

122 37-97-107. (1) Except as provided for under this article, a
123 postsecondary educational institution shall not uphold any



124 contract, rule, regulation, standard or other requirement that
125 prevents a student-athlete of that institution from earning
126 compensation * * * for the use of the student's * * * publicity
127 rights. Any such contract, rule, regulation standard or other
128 requirement shall be void and unenforceable against the
129 postsecondary educational institution or the student-athlete.
130 Compensation from the use of a student-athlete's * * * publicity
131 rights may not affect the student-athlete's scholarship
132 eligibility, grant-in-aid or other financial aid, awards or
133 benefits, or the student-athlete's intercollegiate athletic
134 eligibility. Nothing in this article is intended to alter any
135 state and federal laws or regulations regarding the award of
136 financial aid at postsecondary educational institutions.

137 (2) Except as provided for in this article, an athletic
138 association, conference or other group or organization with
139 authority over intercollegiate athletic programs, including, but
140 not limited to, the National Collegiate Athletic Association
141 (NCAA) and the National Junior College Athletic Association
142 (NJCAA), shall not prevent, or otherwise enforce a contract, rule,
143 regulation, standard or other requirement that prevents, a
144 student-athlete of a postsecondary educational institution from
145 earning compensation as a result of the use of the
146 student-athlete's * * * publicity rights.

147 (3) To protect the integrity of its educational mission and
148 intercollegiate athletics program, a postsecondary educational



149 institution may impose reasonable limitations on the dates and
150 time that a student-athlete may participate in endorsement,
151 promotional, social media or other activities related to the
152 license or use of the student-athlete's * * * publicity rights.
153 Nothing in this article shall restrict a postsecondary educational
154 institution from exercising its sole discretion to control the
155 authorized use of its marks or logos or to determine a
156 student-athlete's apparel, gear or other wearables during an
157 intercollegiate athletics competition or institution-sponsored
158 event. A student-athlete may not receive or enter into a contract
159 for compensation for the use of his or her * * * publicity rights
160 in a way that also uses any registered or licensed marks, logos,
161 verbiage or designs of a postsecondary institution, unless the
162 institution has provided the student-athlete with written
163 permission to do so prior to * * * entering into the agreement or
164 receipt of compensation. If permission is granted, the
165 postsecondary educational institution, by agreement of all
166 parties, may be compensated for the use in a manner consistent
167 with market rates. A postsecondary educational institution may
168 also prohibit a student-athlete from wearing any item of clothing,
169 shoes, or other gear or wearables with the name, logo or insignia
170 of any entity during an intercollegiate athletics competition or
171 institution-sponsored event.

172 (4) An athletic association, conference or other group or
173 organization with authority over intercollegiate athletics



174 programs, including, but not limited to, the National Collegiate
175 Athletic Association and the National Junior College Athletic
176 Association, shall not enforce a contract, rule, regulation,
177 standard or other requirement that prevents a postsecondary
178 educational institution from participating in an intercollegiate
179 athletics program, or otherwise penalize the postsecondary
180 educational institution or its intercollegiate athletic program,
181 as a result of activities permitted by this article, including,
182 without limitation, the compensation of a student-athlete for the
183 use of the student-athlete's * * * publicity rights.

184 (5) (a) A postsecondary educational institution, athletic
185 association, conference or other group or organization with
186 authority over intercollegiate athletics programs, including, but
187 not limited to, the National Collegiate Athletic Association and
188 the National Junior College Athletic Association, shall not * * *:

189 (* * * i) Enter into, or offer to enter into, a
190 name, image and likeness agreement with a * * * student-athlete;
191 or

192 (* * * ii) Provide a * * * student-athlete or the
193 student-athlete's family compensation in relation to the use of
194 the student-athlete's * * * publicity rights.

195 (b) A postsecondary educational institution may
196 facilitate opportunities for student-athletes to engage with third
197 parties interested in entering into name, image, and likeness
198 agreements, and may communicate with third parties interested in



199 providing name, image, and likeness agreements to
200 student-athletes.

201 (6) A postsecondary educational institution, athletic
202 association, conference or other group or organization with
203 authority over intercollegiate athletics programs, including, but
204 not limited to, the National Collegiate Athletic Association and
205 the National Junior College Athletic Association shall not prevent
206 a student-athlete from obtaining professional representation in
207 relation to * * * publicity rights, or to secure a name, image and
208 likeness agreement, including, but not limited to, representation
209 provided by athlete agents or legal representation provided by
210 attorneys. A student-athlete shall provide the postsecondary
211 educational institution with written notice at least seven (7)
212 days prior to entering into a representation agreement with any
213 individual for the purpose of exploring or securing compensation
214 for use of the student-athlete's * * * publicity rights.

215 (7) Professional representation obtained by student-athletes
216 must be from persons registered as athlete agents as provided in
217 Section 73-42-1 et seq. of the Uniform Athlete Agent Act.
218 Attorneys who provide legal representation to student-athletes
219 must be licensed to practice law in the State of Mississippi and
220 in good standing with The Mississippi Bar.

221 (8) Athlete agents representing student-athletes shall
222 comply with the Uniform Athlete Agents Act, Section 73-42-1 et
223 seq., Mississippi Code of 1972, and the federal Sports Agent



224 Responsibility and Trust Act in 15 USC Sections 7801-7807 in their
225 relationships with student-athletes.

226 (9) A grant-in-aid, including cost of attendance, and other
227 permissible financial aid, awards or benefits from the
228 postsecondary educational institution in which a student-athlete
229 is enrolled shall not be revoked, reduced, nor the terms and
230 conditions altered, as a result of a student-athlete earning
231 compensation or obtaining professional or legal representation
232 pursuant to this article.

233 (10) Before any * * * agreement for compensation for the use
234 of a student-athlete's * * * publicity rights is * * * entered
235 into, and before any compensation is provided to the
236 student-athlete in advance of * * * an agreement, the
237 student-athlete shall disclose the * * * agreement to a designated
238 official of the postsecondary educational institution in which the
239 student-athlete is enrolled in a manner prescribed by the
240 institution.

241 (11) A third-party * * * may not enter into, or offer to
242 enter into, a name, image and likeness agreement with a
243 student-athlete or otherwise compensate a student-athlete for the
244 use of the student-athlete's * * * publicity rights if a provision
245 of the name, image and likeness agreement or the use of the
246 student-athlete's * * * publicity rights conflicts with a
247 provision of a contract, rule, regulation, standard or other
248 requirement of the postsecondary educational institution unless



249 such contract or use is expressly approved in writing by the
250 postsecondary educational institution.

251 (12) No postsecondary educational institution, booster * * *
252 or third-party * * * shall provide a * * * student-athlete
253 compensation or enter into a name, image and likeness agreement as
254 an inducement for the student-athlete to attend or enroll in a
255 specific institution or group of institutions. Compensation for a
256 student-athlete's * * * publicity rights may not be conditioned on
257 athletic performance or attendance * * *.

258 * * *

259 (* * *13) No student-athlete shall enter into a name,
260 image, and likeness agreement or receive compensation from a
261 third-party licensee for the endorsement or promotion of gambling,
262 sports betting, controlled substances, marijuana, tobacco or
263 alcohol * * *, brand or * * * product, alternative or electronic
264 nicotine product or delivery system, performance-enhancing * * *
265 supplement, adult entertainment or any other product or service
266 that is reasonably considered to be inconsistent with the values
267 or mission of a postsecondary educational institution or that
268 negatively impacts or reflects adversely on a postsecondary
269 education institution or its athletic programs, including, without
270 limitation, bringing about public disrepute, embarrassment,
271 scandal, ridicule or otherwise negatively impacting the reputation
272 or the moral or ethical standards of the postsecondary educational
273 institution.



274 (* * *14) * * * An agreement for the use of * * * a
275 student-athlete's * * * publicity rights which is formed while the
276 student-athlete is participating in an intercollegiate sport at a
277 postsecondary educational institution may not extend beyond the
278 student-athlete's participation in the sport at the institution.

279 (* * *15) Nothing in this article shall be interpreted to
280 modify any requirements or obligations imposed under Title IX of
281 the Education Amendments of 1972 (20 USC 1681 et seq.).

282 **SECTION 4.** Section 73-42-19, Mississippi Code of 1972, is
283 amended as follows:

284 73-42-19. (1) An agency contract must be in a record,
285 signed by the parties.

286 (2) An agency contract must state or contain:

287 (a) The amount and method of calculating the
288 consideration to be paid by the student-athlete for services to be
289 provided by the athlete agent under the contract and any other
290 consideration or anything of value that the athlete agent has
291 received or will receive from any other source for entering into
292 the contract or for providing the services;

293 (b) The name of any person not listed in the
294 application for registration or renewal who will be compensated
295 because the student-athlete signed the agency contract;

296 (c) A description of any expenses that the
297 student-athlete agrees to reimburse;



298 (d) A description of the services to be provided to the
299 student-athlete;

300 (e) The duration of the contract; and

301 (f) The date of execution.

302 (3) An agency contract must contain, in close proximity to
303 the signature of the student-athlete, a conspicuous notice in
304 boldface type in capital letters stating:

305 **WARNING TO STUDENT-ATHLETE**

306 **IF YOU SIGN THIS CONTRACT:**

307 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A**
308 **STUDENT-ATHLETE IN YOUR SPORT UNLESS THIS CONTRACT IS SERVING AS A**
309 **NAME, IMAGE AND LIKENESS AGREEMENT PURSUANT TO SECTION 37-97-103;**

310 (2) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL**
311 **YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN**
312 **72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

313 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**
314 **SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR**
315 **ELIGIBILITY.**

316 (4) An agency contract that does not conform to this section
317 is voidable by the student-athlete.

318 (5) The athlete agent shall give a copy of the signed agency
319 contract to the student-athlete at the time of signing.

320 **SECTION 5.** This act shall take effect and be in force from
321 and after its passage.

