

By: Representative Lamar

To: Universities and
Colleges

HOUSE BILL NO. 1474

1 AN ACT TO AMEND SECTION 37-97-105, MISSISSIPPI CODE OF 1972,
 2 TO PROHIBIT A HIGH SCHOOL STUDENT-ATHLETE FROM RECEIVING
 3 COMPENSATION FOR THE USE OF THE ATHLETE'S PUBLICITY RIGHTS BEFORE
 4 THE ATHLETE SIGNS A LETTER OF INTENT OR OTHER WRITTEN AGREEMENT TO
 5 ENROLL IN A POSTSECONDARY EDUCATIONAL INSTITUTION; TO AMEND
 6 SECTION 37-97-107, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
 7 EMPLOYEES OF POSTSECONDARY EDUCATIONAL INSTITUTIONS TO ASSIST,
 8 WITHOUT COMPENSATION, WITH NEGOTIATIONS OF NAME, IMAGE AND
 9 LIKENESS AGREEMENTS ON BEHALF OF STUDENT-ATHLETES; TO EXEMPT NAME,
 10 IMAGE AND LIKENESS AGREEMENTS FROM THE PUBLIC RECORDS ACT; TO
 11 CREATE NEW SECTION 37-97-111, MISSISSIPPI CODE OF 1972, TO REQUIRE
 12 A POSTSECONDARY EDUCATIONAL INSTITUTION TO DEVELOP A PROCESS FOR
 13 GRANTING A LICENSE FOR THE USE OF THE INSTITUTION'S UNIQUE
 14 IDENTIFIERS IN CONNECTION WITH THE PUBLICITY OF A STUDENT-ATHLETE,
 15 AND TO AUTHORIZE THE INSTITUTION TO CHARGE A FEE FOR THE LICENSE;
 16 TO CREATE NEW SECTION 37-97-113, MISSISSIPPI CODE OF 1972, TO
 17 REQUIRE EDUCATIONAL INSTITUTIONS TO OFFER WORKSHOPS TO
 18 STUDENT-ATHLETES ON FINANCIAL LITERACY AND LIFE SKILLS; TO BRING
 19 FORWARD SECTION 37-97-103, MISSISSIPPI CODE OF 1972, WHICH DEFINES
 20 CERTAIN TERMS USED UNDER THE MISSISSIPPI INTERCOLLEGIATE ATHLETICS
 21 COMPENSATION RIGHTS ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; AND
 22 FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 37-97-105, Mississippi Code of 1972, is
 25 amended as follows:

26 37-97-105. (1) Except as provided in subsection (3) of this
 27 section and in Section 37-97-107, a student-athlete may:



28 (a) Earn compensation, for the use of publicity rights
29 of the student-athlete; and

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

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

35 (3) A student-athlete who is a high school student may not
36 earn or attempt to earn compensation for the use of the athlete's
37 publicity rights before signing an athletic letter of intent or
38 other written agreement to enroll in a postsecondary educational
39 institution in this state.

40 (* * *4) Notwithstanding any other provision of applicable
41 law or agreement to the contrary, a student-athlete shall not be
42 deemed an employee or independent contractor of an association, a
43 conference, or a postsecondary educational institution based on
44 the student-athlete's participation in an intercollegiate
45 athletics program.

46 **SECTION 2.** Section 37-97-107, Mississippi Code of 1972, is
47 amended as follows:

48 37-97-107. (1) Except as provided for under this article, a
49 postsecondary educational institution shall not uphold any
50 contract, rule, regulation, standard or other requirement that
51 prevents a student-athlete of that institution from earning
52 compensation for the use of the student's publicity rights. Any



53 such contract, rule, regulation standard or other requirement
54 shall be void and unenforceable against the postsecondary
55 educational institution or the student-athlete. Compensation from
56 the use of a student-athlete's publicity rights may not affect the
57 student-athlete's scholarship eligibility, grant-in-aid or other
58 financial aid, awards or benefits, or the student-athlete's
59 intercollegiate athletic eligibility. Nothing in this article is
60 intended to alter any state and federal laws or regulations
61 regarding the award of financial aid at postsecondary educational
62 institutions.

63 (2) Except as provided for in this article, an athletic
64 association, conference or other group or organization with
65 authority over intercollegiate athletic programs, including, but
66 not limited to, the National Collegiate Athletic Association
67 (NCAA) and the National Junior College Athletic Association
68 (NJCAA), shall not prevent, or otherwise enforce a contract, rule,
69 regulation, standard or other requirement that prevents, a
70 student-athlete of a postsecondary educational institution from
71 earning compensation as a result of the use of the
72 student-athlete's publicity rights.

73 (3) To protect the integrity of its educational mission and
74 intercollegiate athletics program, a postsecondary educational
75 institution may impose reasonable limitations on the dates and
76 time that a student-athlete may participate in endorsement,
77 promotional, social media or other activities related to the



78 license or use of the student-athlete's publicity rights. Nothing
79 in this article shall restrict a postsecondary educational
80 institution from exercising its sole discretion to control the
81 authorized use of its marks or logos or to determine a
82 student-athlete's apparel, gear or other wearables during an
83 intercollegiate athletics competition or institution-sponsored
84 event. A student-athlete may not receive or enter into a contract
85 for compensation for the use of his or her publicity rights in a
86 way that also uses any registered or licensed marks, logos,
87 verbiage or designs of a postsecondary institution, unless the
88 institution has provided the student-athlete with written
89 permission to do so prior to entering into the agreement or
90 receipt of compensation. If permission is granted, the
91 postsecondary educational institution, by agreement of all
92 parties, may be compensated for the use in a manner consistent
93 with market rates. A postsecondary educational institution may
94 also prohibit a student-athlete from wearing any item of clothing,
95 shoes, or other gear or wearables with the name, logo or insignia
96 of any entity during an intercollegiate athletics competition or
97 institution-sponsored event.

98 (4) An athletic association, conference or other group or
99 organization with authority over intercollegiate athletics
100 programs, including, but not limited to, the National Collegiate
101 Athletic Association and the National Junior College Athletic
102 Association, shall not enforce a contract, rule, regulation,



103 standard or other requirement that prevents a postsecondary
104 educational institution from participating in an intercollegiate
105 athletics program, or otherwise penalize the postsecondary
106 educational institution or its intercollegiate athletic program,
107 as a result of activities permitted by this article, including,
108 without limitation, the compensation of a student-athlete for the
109 use of the student-athlete's publicity rights.

110 (5) (a) A postsecondary educational institution, athletic
111 association, conference or other group or organization with
112 authority over intercollegiate athletics programs, including, but
113 not limited to, the National Collegiate Athletic Association and
114 the National Junior College Athletic Association, shall not:

115 (i) Enter into, or offer to enter into, a name,
116 image and likeness agreement with a student-athlete; or

117 (ii) Provide a student-athlete or the
118 student-athlete's family compensation in relation to the use of
119 the student-athlete's publicity rights.

120 (b) A postsecondary educational institution or officer,
121 director or employee of the institution, including a coach, member
122 of the coaching staff or any individual associated with the
123 institution's athletic department, may identify, create,
124 facilitate, negotiate, support, enable or otherwise assist with
125 opportunities for student-athletes to engage with third parties
126 interested in entering into name, image, and likeness agreements,
127 and may communicate on behalf of student-athletes with third



128 parties interested in providing name, image, and likeness
129 agreements to student-athletes. However, an individual acting on
130 behalf of a student-athlete under this paragraph may not:

131 (i) Receive compensation from the student-athlete
132 or a third-party for facilitating, enabling or assisting with the
133 opportunities;

134 (ii) Attempt to influence a student-athlete's
135 choice of professional representation related to the
136 opportunities; or

137 (iii) Attempt to reduce the student-athlete's
138 opportunities from competing third-parties.

139 (6) A postsecondary educational institution, athletic
140 association, conference or other group or organization with
141 authority over intercollegiate athletics programs, including, but
142 not limited to, the National Collegiate Athletic Association and
143 the National Junior College Athletic Association shall not prevent
144 a student-athlete from obtaining professional representation in
145 relation to publicity rights, or to secure a name, image and
146 likeness agreement, including, but not limited to, representation
147 provided by athlete agents or legal representation provided by
148 attorneys. A student-athlete shall provide the postsecondary
149 educational institution with written notice at least seven (7)
150 days prior to entering into a representation agreement with any
151 individual for the purpose of exploring or securing compensation
152 for use of the student-athlete's publicity rights.



153 (7) Professional representation obtained by student-athletes
154 must be from persons registered as athlete agents as provided in
155 Section 73-42-1 et seq. of the Uniform Athlete Agent Act.

156 Attorneys who provide legal representation to student-athletes
157 must be licensed to practice law in the State of Mississippi and
158 in good standing with The Mississippi Bar.

159 (8) Athlete agents representing student-athletes shall
160 comply with the Uniform Athlete Agents Act, Section 73-42-1 et
161 seq., Mississippi Code of 1972, and the federal Sports Agent
162 Responsibility and Trust Act in 15 USC Sections 7801-7807 in their
163 relationships with student-athletes.

164 (9) A grant-in-aid, including cost of attendance, and other
165 permissible financial aid, awards or benefits from the
166 postsecondary educational institution in which a student-athlete
167 is enrolled shall not be revoked, reduced, nor the terms and
168 conditions altered, as a result of a student-athlete earning
169 compensation or obtaining professional or legal representation
170 pursuant to this article.

171 (10) Before any agreement for compensation for the use of a
172 student-athlete's publicity rights is entered into, and before any
173 compensation is provided to the student-athlete in advance of an
174 agreement, the student-athlete shall disclose the agreement to a
175 designated official of the postsecondary educational institution
176 in which the student-athlete is enrolled in a manner prescribed by
177 the institution. An agreement or proposed agreement detailing



178 compensation to a student-athlete for the use of the
179 student-athlete's publicity rights is exempt from the Mississippi
180 Public Records Act of 1983.

181 (11) A third-party may not enter into, or offer to enter
182 into, a name, image and likeness agreement with a student-athlete
183 or otherwise compensate a student-athlete for the use of the
184 student-athlete's publicity rights if a provision of the name,
185 image and likeness agreement or the use of the student-athlete's
186 publicity rights conflicts with a provision of a contract, rule,
187 regulation, standard or other requirement of the postsecondary
188 educational institution unless such contract or use is expressly
189 approved in writing by the postsecondary educational institution.

190 (12) No postsecondary educational institution, booster or
191 third-party shall provide a student-athlete compensation or enter
192 into a name, image and likeness agreement as an inducement for the
193 student-athlete to attend or enroll in a specific institution or
194 group of institutions. Compensation for a student-athlete's
195 publicity rights may not be conditioned on athletic performance or
196 attendance.

197 (13) No student-athlete shall enter into a name, image, and
198 likeness agreement or receive compensation from a third-party
199 licensee for the endorsement or promotion of gambling, sports
200 betting, controlled substances, marijuana, tobacco or alcohol,
201 brand or product, alternative or electronic nicotine product or
202 delivery system, performance-enhancing supplement, adult



203 entertainment or any other product or service that is reasonably
204 considered to be inconsistent with the values or mission of a
205 postsecondary educational institution or that negatively impacts
206 or reflects adversely on a postsecondary * * * educational
207 institution or its athletic programs, including, without
208 limitation, bringing about public disrepute, embarrassment,
209 scandal, ridicule or otherwise negatively impacting the reputation
210 or the moral or ethical standards of the postsecondary educational
211 institution.

212 (14) An agreement for the use of a student-athlete's
213 publicity rights which is formed while the student-athlete is
214 participating in an intercollegiate sport at a postsecondary
215 educational institution may not extend beyond the
216 student-athlete's participation in the sport at the institution.

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

220 **SECTION 3.** The following shall be codified as Section
221 37-97-111, Mississippi Code of 1972.

222 37-97-111. (1) A postsecondary educational institution may
223 authorize the promotion of:

224 (a) Athletic events in which a student-athlete who is
225 being compensated for the athlete's publicity rights will or may
226 participate;



227 (b) The postsecondary educational institution that the
228 student-athlete attends; and

229 (c) The postsecondary educational institution's
230 intercollegiate athletics or sports program.

231 (2) A postsecondary educational institution may authorize
232 the use of the postsecondary educational institution's or the
233 institution's intercollegiate athletics program's content creation
234 and marketing capabilities in connection with services provided
235 for the promotion of athletic events in which a student-athlete
236 will or may participate, the postsecondary educational
237 institution, or the institution's intercollegiate athletics or
238 sports program.

239 (3) Each postsecondary educational institution shall develop
240 and adopt a process for granting to a student-athlete, or to a
241 third-party for use in connection with a student-athlete, a
242 license to use the institution's unique identifiers when earning
243 or attempting to earn compensation from the use of a
244 student-athlete's publicity rights consistent with such other
245 policies of the institution regarding licensing of its unique
246 identifiers. For the purposes of this subsection, a "unique
247 identifier" is any of the following developed or adopted for
248 marketing or promotional purposes by a postsecondary educational
249 institution:

250 (a) Seal;

251 (b) Logo;



- 252 (c) Emblem;
- 253 (d) Motto;
- 254 (e) Special symbol;
- 255 (f) Institutional colors;
- 256 (g) Modifier or descriptor;
- 257 (h) Design;
- 258 (i) Patentable or copyrightable item, material or
259 information; or
- 260 (j) Other item, material or information that identifies
261 and is recognizable as unique to a postsecondary educational
262 institution.

263 (4) A postsecondary educational institution may charge a
264 reasonable fee for a license to use a unique identifier under this
265 section.

266 (5) A student-athlete granted a license, or a third-party
267 for use in connection with a student-athlete, may not use a unique
268 identifier in any manner that would cause the student-athlete to
269 violate the prohibition against endorsing or promoting certain
270 products or services under Section 37-97-107(13).

271 **SECTION 4.** The following shall be codified as Section
272 37-97-113, Mississippi Code of 1972:

273 37-97-113. (1) A postsecondary educational institution that
274 enters into commercial agreements that directly or indirectly
275 require the use of a student-athlete's name, image or likeness, or
276 which enrolls a student-athlete who is a party to a name, image



277 and likeness agreement, must offer at least two (2) workshops per
278 academic year on topics including, but not limited to, financial
279 literacy, life skills, time management and entrepreneurship. The
280 workshops may not be offered during the same semester or academic
281 term. Each workshop offered in an academic year must be unique
282 and not simply a repeat of the other workshop offered that year.
283 The institution must notify all student-athletes of the sessions
284 through distribution of informational materials via email or other
285 communication methods that the institution regularly uses to
286 communicate with student-athletes.

287 (2) An educational workshop may not include any marketing,
288 advertising, referral or solicitation by providers of financial
289 products or services.

290 **SECTION 5.** Section 37-97-103, Mississippi Code of 1972, is
291 brought forward as follows:

292 37-97-103. As used in this article, the following terms
293 shall have the following meanings unless the context clearly
294 indicates otherwise:

295 (a) "Compensation" means anything of value, monetary or
296 otherwise, including, but not limited to, cash, gifts, in-kind
297 items of value, social media compensation, payments for licensing
298 or use of publicity rights, payments for other intellectual or
299 intangible property rights under federal or state law, and any
300 other form of payment or remuneration, except as excluded under
301 this article.



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

304 (i) Tuition, room, board, books, fees and personal
305 expenses that a postsecondary educational institution provides a
306 student-athlete in accordance with the rules of the athletic
307 association or conference of which the postsecondary educational
308 institution is a member;

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

313 (iii) Any other financial aid, benefits or awards
314 that a postsecondary educational institution provides a
315 student-athlete in accordance with the rules of the athletic
316 association or conference of which the postsecondary educational
317 institution is a member; or

318 (iv) The payment of wages and benefits to a
319 student-athlete for work actually performed for services unrelated
320 to a student-athlete's publicity rights or other intellectual or
321 intangible property rights of a student-athlete under federal or
322 state law.

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

324 (c) "Intercollegiate athletics program" means an
325 intercollegiate athletics program played at the collegiate level
326 for which eligibility requirements for participation by a



327 student-athlete are established by a national association for the
328 promotion or regulation of collegiate athletics.

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

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

334 (f) "Name, Image and Likeness Agreement" means a
335 contract or other arrangement between a student-athlete and a
336 third-party regarding the use of the publicity of the
337 student-athlete.

338 (g) "Publicity right" means any right:

339 (i) Associated with the name, image, likeness,
340 publicity, reputation, fame or personal following of a
341 student-athlete; or

342 (ii) Recognized under a federal or state law as
343 permitting an individual to control and profit from the use of the
344 name, image, likeness, publicity, reputation, fame or personal
345 following of the individual.

346 (h) "Postsecondary educational institution" means a
347 public university or community college or private university or
348 college.

349 (i) "Social media compensation" means all forms of
350 payment for engagement on social media received by a



351 student-athlete as a result of the use of that student-athlete's
352 publicity rights.

353 (j) "Student-athlete" means an individual who engages
354 in, is eligible to engage in, or may be eligible in the future to
355 engage in, intercollegiate athletics program at a postsecondary
356 educational institution, including, without limitation,
357 prospective student-athletes of an intercollegiate athletics
358 program. If an individual is permanently ineligible to
359 participate in a particular intercollegiate sport, the individual
360 is not a student-athlete for purposes of that sport.

361 (k) "Third party" means any individual or entity or
362 group of the same, acting independently or collectively, that
363 enters into an agreement for the publicity rights of a
364 student-athlete or group of student-athletes. The term "third
365 party" shall not include any national association for the
366 promotion or regulation of collegiate athletics, athletics
367 conference, or postsecondary educational institution.

368 **SECTION 6.** This act shall take effect and be in force from
369 and after July 1, 2024.

