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## IN THE CONGRESS OF THE UNITED STATES

JUNE 15, 2020

***Proposed By:*** Deputy Whip/Rep. Halpert (R-PA-2) (for himself,)

***Co-Sponsors:*** Attorney General/Chief Whip Lee, GOP Leader Jacob (R-OH-3), FEMA Administrator Mark (R-CA-2), Rep. Vrevesz (R-CO-4), Rep. Mike Coolidge (R-LB-5)

introduced the following bill;

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## A BILL

*To ensure that college athletes, and not institutions of higher education, are able to profit from their name, image, and likeness, and for other purposes.*

*Be it enacted by the House of Representatives of the United States of America in Congress Assembled,*

### **SECTION 1. SHORT TITLE.**

This bill may be cited as the “College Athlete Fairness Act of 2020”

## **SECTION 2. DEFINITIONS.**

In this Act—

(a) **COMMISSION.**—

- (i) The term “Commission” means the Federal Trade Commission.

(b) **COMPENSATION.**—

- (i) The term “compensation” means any remuneration, in cash or kind, whether provided at the time or at any subsequent date to a student athlete, except such term shall not include any grant, scholarship, fellowship, tuition assistance, or other form of financial aid provided to a student for pursuing a postsecondary education.

(c) **INSTITUTION OF HIGHER EDUCATION.**—

- (i) The term “institution of higher education” has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(d) **INTERCOLLEGIATE ATHLETIC ASSOCIATION.**—

- (i) The term “intercollegiate athletic association”—

(1) Means—

- a) the National Collegiate Athletic Association (or any successor organization);
  - i) and any intercollegiate athletic association that the Commission determines is similar in purpose and scope to the association described in clause a), subject to subparagraph b); and
- b) does not include the National Junior College Athletic Association (or any successor organization) or the National Association of Intercollegiate Athletics (or any successor organization).

(e) **STUDENT ATHLETE.**—

- (i) The term “student athlete” means an individual who is enrolled in an institution of higher education and engages in post-secondary athletics.

(f) **THIRD PARTY.**—

- (i) The term “third party” means, with respect to any student athlete, any entity other than the institution of higher education in which such student athlete is enrolled.

## **SECTION 3. ESTABLISHMENT OF PAYMENT**

Not later than June 30, 2021, any intercollegiate athletic association shall establish—

- (a) a policy that permits any student athlete to—

- (i) Earn compensation from a third party as a result of the use of the name, image or likeness of such student athlete; and
  - (ii) subject to the requirements under section 3 of the Sports Agent Responsibility and Trust Act (15 U.S.C. 7802), obtain professional representation with respect to matters described in subparagraph (i); and
- (b) Rules and programs for the administration of the policy described in paragraph (i), including—
  - (i) requiring student athletes to report any compensation described in such paragraph, or any agreement to receive such compensation, to the institution of higher education in which they are enrolled and the intercollegiate athletic association within a reasonable period following—
    - (1) the date on which an agreement to receive such compensation is reached between the student athlete and the third party; and
      - a) the date on which such compensation is received by the student athlete; and
  - (ii) Such rules and programs as are deemed necessary to—
    - (1) preserve the amateur status of student athletes;
    - (2) ensure appropriate recruitment of prospective student athletes; and
    - (3) prevent illegitimate activity with respect to any third party seeking to recruit or retain student athletes with respect to any institution of higher education, including any third party—
      - a) with a prior or existing association, either formally or informally,
      - b) with any institution of higher education; or with a prior or existing financial involvement with respect to postsecondary athletics.

#### **SECTION 4. ENFORCEMENT PROVISIONS.**

##### **Unfair or Deceptive Act or Practice**

- (a) In General.—
  - (i) A violation of section 3 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).
- (b) Actions by the Commission.—
  - (i) The Commission shall enforce section 3 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.
- (c) Enforcement Related to Nonprofit Organizations.—

- (i) Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46) or any jurisdictional limitation of the Federal Trade Commission, the Commission shall also enforce this Act and any regulations promulgated under this Act, in the same manner provided in paragraphs (a) and (b) of this subsection, with respect to organizations not organized to carry on business for their own profit or that of their members.

Exception.—

- (a) Except as provided under subsection (a), no cause of action shall lie or be maintained in any court against any intercollegiate athletic association, or any institution of higher education which is a member of such association for the adoption or enforcement of a policy, rule, or program established under section 3.

## **SECTION 5. PREEMPTION.**

- (a) No State or political subdivision of a State may adopt, maintain, enforce, or continue in effect any law, regulation, rule, requirement, or standard related to permitting or prohibiting a student athlete to receive compensation from an institution of higher education or a third party as a result of such athlete's performance or participation in postsecondary athletics.

## **SECTION 6. ENACTMENT.**

This Act shall be enacted no later than June 30, 2021.

*Formatted by Representative Halpert (R-PA) for Congress' use.*

*Inspired by S.4004*