

SECOND REGULAR SESSION

# HOUSE BILL NO. 2562

102ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE GREGORY.

4928H.011

DANA RADEMAN MILLER, Chief Clerk

---

## AN ACT

To repeal section 173.280, RSMo, and to enact in lieu thereof two new sections relating to compensation of student athletes.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 173.280, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 167.750 and 173.280, to read as follows:

**167.750. 1. As used in this section, the following terms mean:**

- (1) "High school athlete", an individual who is eligible to participate in, participates in, or has participated in an interscholastic sport on an interscholastic athletic team in this state that is sponsored by a public school or by a private school whose students compete against a public school's students;
- (2) "Private school", the same definition as in section 166.700;
- (3) "Public school", the same definition as in section 160.011.

2. A high school athlete may earn or attempt to earn compensation from the use of such athlete's name, image, likeness rights, or athletic reputation as provided in this section and section 173.280, subject to the following:

- (1) A high school athlete shall have the right to discuss earning or attempting to earn such compensation before signing an athletic letter of intent or other written agreement only when having discussions about potential enrollment with a postsecondary educational institution in this state; and
- (2) A high school athlete shall have the right to earn or attempt to earn such compensation only after signing an athletic letter of intent or other written agreement to enroll in a postsecondary educational institution in this state.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18           **3. The discussion of, or earning or attempting to earn, compensation from the**  
19 **use of such high school athlete's name, image, likeness rights, or athletic reputation as**  
20 **provided in this section and section 173.280 shall not be construed to be a violation of**  
21 **any rules or regulations a high school student or a high school is required to follow to**  
22 **maintain and protect a high school athlete's high school eligibility to participate in high**  
23 **school athletics in this state.**

24           **4. A high school athlete who earns or attempts to earn compensation from the**  
25 **use of such athlete's name, image, likeness rights, or athletic reputation as provided in**  
26 **this section and section 173.280 may, upon the approval of the administration of the**  
27 **athlete's high school, use any of the following identifiers of the athlete's high school in**  
28 **such earning efforts:**

29           **(1) Colors;**

30           **(2) Logos;**

31           **(3) Mascot;**

32           **(4) Name;**

33           **(5) Nickname;**

34           **(6) Uniforms; and**

35           **(7) Any other item, material, or information that identifies and is recognizable as**  
36 **unique to such athlete's high school.**

173.280. 1. As used in this section, the following terms mean:

2           (1) "Institutional marketing associate", any third-party entity that enters into an  
3 agreement with a postsecondary educational institution or its intercollegiate athletics or sports  
4 program to market and/or promote the postsecondary educational institution or its  
5 intercollegiate athletics or sports program, or to otherwise act on behalf of the  
6 postsecondary educational institution or the postsecondary educational institution's  
7 intercollegiate athletics or sports program. This term does not include a regulatory body,  
8 postsecondary educational institution, postsecondary educational institution staff member, or  
9 their respective officers, directors, managers, owners, or employees;

10           (2) "Postsecondary educational institution", any campus of a public or private  
11 institution of higher education in this state that is subject to the coordinating board for higher  
12 education under section 173.005;

13           (3) "Student athlete", an individual who is eligible to participate in, participates in, or  
14 has participated in an intercollegiate sport for a postsecondary educational institution.  
15 Student athlete shall not be construed to apply to an individual's participation in a college  
16 intramural sport or in a professional sport outside of intercollegiate athletics;

17           (4) "Third party", any individual or entity, including any athlete agent, other than a  
18 postsecondary educational institution, athletic conference, or athletic association.

19           2. (1) No postsecondary educational institution shall uphold any rule, requirement,  
20 standard, or other limitation of an athletic association or athletic conference that prevents a  
21 student of that institution from fully participating in intercollegiate athletics without penalty  
22 and earning compensation as a result of the use of the student's name, image, likeness rights,  
23 or athletic reputation. A student athlete earning compensation from the use of a student's  
24 name, image, likeness rights, or athletic reputation shall not affect such student athlete's grant-  
25 in-aid or stipend eligibility, amount, duration, or renewal.

26           (2) No postsecondary educational institution shall interfere with or prevent a student  
27 from fully participating in intercollegiate athletics or obtaining professional representation in  
28 relation to contracts or legal matters relating to earning compensation as a result of the use of  
29 the student athlete's name, image, likeness rights, or athletic reputation, including, but not  
30 limited to, representation provided by athlete agents, financial advisors, or legal  
31 representation provided by attorneys.

32           3. A grant-in-aid or stipend from the postsecondary educational institution in which a  
33 student is enrolled shall not be construed to be compensation for use of the student's name,  
34 image, likeness rights, or athletic reputation for purposes of this section, and no grant-in-aid  
35 or stipend shall be revoked or reduced as a result of a student earning compensation under this  
36 section.

37           4. (1) No student athlete shall enter into an apparel, equipment, or beverage contract  
38 providing compensation to the athlete for use of the athlete's name, image, likeness rights, or  
39 athletic reputation if the contract requires the athlete to display a sponsor's apparel,  
40 equipment, or beverage or otherwise advertise for the sponsor during official team activities if  
41 such provisions are in conflict with a provision of the postsecondary educational institution's  
42 current licenses or contracts.

43           (2) (a) Except with the prior written consent of the student athlete's postsecondary  
44 educational institution, a student athlete shall not enter into a contract for compensation for  
45 the use of such student athlete's name, image, likeness rights, or athletic reputation, if such  
46 institution determines that a term of the contract conflicts with a term of a contract to which  
47 such institution is a party.

48           (b) A postsecondary educational institution or any officer, director, or employee of  
49 such institution, including but not limited to a coach, member of the coaching staff, or any  
50 individual associated with the institution's athletic department, shall have the right to identify,  
51 create, facilitate, negotiate, support, enable, or otherwise assist with opportunities for a  
52 student athlete to earn compensation from a third party, including an institutional marketing  
53 associate, for the use of the student athlete's name, image, likeness rights, or athletic  
54 reputation, provided that such individual shall not:

55 a. Receive compensation from the student athlete or a third party for facilitating,  
56 enabling, or assisting with such opportunities;

57 b. Attempt to influence an athlete's choice of professional representation related to  
58 such opportunities; or

59 c. Attempt to reduce such athlete's opportunities from competing third parties.

60 (c) The provisions of this section shall not be construed to qualify a student athlete as  
61 an employee of a postsecondary educational institution.

62 (3) Before any contract for compensation for the use of a student athlete's name,  
63 image, likeness rights, or athletic reputation, or for professional representation, is executed,  
64 and before any compensation is provided to the student athlete in advance of a contract, the  
65 student athlete shall disclose that contract to his or her postsecondary educational institution  
66 in a manner prescribed by such institution.

67 (4) A postsecondary educational institution or any officer, director, or employee of  
68 such institution shall not compensate a student athlete, prospective student athlete, or the  
69 family of such individuals, for the use of such student athlete or prospective student athlete's  
70 name, image, likeness rights, or athletic reputation, unless otherwise permitted by  
71 institutional policy and a collegiate athletics association that the postsecondary educational  
72 institution is a member of.

73 (5) (a) As used in this subdivision, "unique identifier" means any of the following  
74 developed or adopted for marketing or promotional purposes by a postsecondary educational  
75 institution or a third party:

76 a. Seal;

77 b. Logo;

78 c. Emblem;

79 d. Motto;

80 e. Special symbol;

81 f. Institutional colors;

82 g. Modifier or descriptor;

83 h. Design;

84 i. Patentable or copyrightable item, material, or information; or

85 j. Other item, material, or information that identifies and is recognizable as unique to  
86 such postsecondary educational institution or third party.

87 (b) A postsecondary educational institution or a third party shall develop and adopt a  
88 process for granting to a student athlete, or to a third party for use with a student athlete, a  
89 license to use such institution's or third-party's unique identifiers when earning or attempting  
90 to earn compensation from the use of such student athlete's name, image, likeness rights, or  
91 athletic reputation consistent with its policies regarding licensing of its unique identifiers.

92 (c) A postsecondary educational institution or a third party may charge a reasonable  
93 fee for a license to use a unique identifier under this subdivision.

94 (d) A postsecondary educational institution, or a third party, may impose  
95 requirements that a student athlete granted a license under this subdivision refrain from  
96 using such unique identifier in a manner that the institution in its sole discretion determines:

97 a. Is reasonably considered to be inconsistent with such institution's or third-party's  
98 values or mission;

99 b. Adversely affects such institution's or third-party's image;

100 c. Negatively impacts or inappropriately reflects upon the reputation or religious,  
101 moral, or ethical standards of such institution or third party;

102 d. Violates such institution's or third-party's code of conduct or similar requirements;

103 or

104 e. Conflicts with a provision of such institution's or third-party's current licenses or  
105 contracts.

106 5. No contract of a postsecondary educational institution's athletic program shall  
107 prevent a student athlete from receiving compensation for using the student athlete's name,  
108 image, likeness rights, or athletic reputation for a commercial purpose when the athlete is not  
109 engaged in official mandatory team activities that are recorded in writing and can be made  
110 publicly available upon request.

111 6. (1) If a private postsecondary educational institution collects, retains, or maintains  
112 the terms of a student athlete's contract or proposed contract detailing compensation to such  
113 student athlete for the use of such student athlete's name, image, likeness, or athletic  
114 reputation, such postsecondary educational institution shall consider such contract terms to be  
115 student-governed by the Family Education Rights and Privacy Act (FERPA).

116 (2) The terms of a contract or proposed contract detailing compensation to a student  
117 athlete for the use of such student athlete's name, image, likeness, or athletic reputation shall  
118 be deemed a closed record under chapter 610. A public postsecondary educational institution  
119 subject to this subsection may withhold or refuse to release or otherwise disclose such  
120 contract terms without seeking a formal opinion of the attorney general of this state as  
121 authorized in section 610.027.

122 7. (1) No compensation to a student athlete for earning or attempting to earn  
123 compensation from the use of such student athlete's name, image, likeness rights, or athletic  
124 reputation shall be conditioned on such student athlete's athletic performance. Those  
125 providing compensation to a student athlete for the use of his or her name, image, likeness  
126 rights, or athletic reputation shall have the right to condition payment of that compensation on  
127 a student athlete's attendance at a particular postsecondary educational institution.

128 (2) A charitable organization that qualifies as an exempt organization under 26 U.S.C.  
129 Section 501(c)(3), as amended, shall have the right to compensate a student athlete for the  
130 commercial use of the student athlete's name, image, likeness rights, or athletic reputation.

131 (3) Notwithstanding any rule of an athletic association, athletic conference, or any  
132 other organization with authority over varsity intercollegiate athletics, institutional marketing  
133 associates shall have the right to compensate a student athlete for the commercial use of the  
134 student athlete's name, image, likeness rights, or athletic reputation. This includes the right to  
135 compensate a student athlete for the commercial use of the student athlete's name, image, or  
136 likeness rights in connection with the promotion of athletic events in which the student athlete  
137 will or may participate, the promotion of the postsecondary educational institution the student  
138 athlete attends, and the promotion of the postsecondary educational institution's  
139 intercollegiate athletics or sports program. Further, an institutional marketing associate  
140 shall, in the event that a postsecondary educational institution or its intercollegiate athletics  
141 program affirmatively grants a request, have the right to utilize a postsecondary educational  
142 institution's, or the postsecondary educational institution's intercollegiate athletics program's,  
143 content creation and marketing capabilities in connection with services provided for the  
144 promotion of athletic events in which a student athlete will or may participate, the  
145 postsecondary educational institution, or the institution's intercollegiate athletics or sports  
146 program.

147 (4) Notwithstanding any rule of an athletic association, athletic conference, or any  
148 other organization with authority over varsity intercollegiate athletics, student athletes shall  
149 have the right to receive compensation from an institutional marketing associate for the  
150 commercial use of their name, image, likeness rights, or athletic reputation, in connection  
151 with, among other items, the promotion of athletic events in which the student athlete will or  
152 may participate, the promotion of the postsecondary educational institution the student athlete  
153 attends, and the promotion of the postsecondary educational institution's intercollegiate  
154 athletics or sports program.

155 8. (1) Postsecondary educational institutions that enter into commercial agreements  
156 that directly or indirectly require the use of a student athlete's name, image, likeness, or  
157 athletic reputation shall offer at least two workshops per calendar year that may include topics  
158 such as financial literacy, life skills, time management, and entrepreneurship. The workshops  
159 may not be offered in the same month and each workshop offered in a calendar year must be  
160 unique and not simply a repeat of the other workshop offered that year. The institution shall  
161 notify all student athletes of the sessions through the distribution of informational materials  
162 via email or other communication methods the institution regularly uses to communicate with  
163 student athletes.

164 (2) The educational workshops shall not include any marketing, advertising, referral,  
165 or solicitation by providers of financial products or services.

166 9. An athletic association, athletic conference, or any other organization with  
167 authority over varsity intercollegiate athletics shall not, and shall not authorize its member  
168 institutions to:

169 (1) Prevent a student athlete from receiving compensation for the commercial use of  
170 the student athlete's name, image, likeness rights, or athletic reputation under this section;

171 (2) Penalize a student athlete for receiving compensation for the commercial use of  
172 the student athlete's name, image, likeness rights, or athletic reputation under this section;

173 (3) Prevent a postsecondary educational institution from participating in varsity  
174 intercollegiate athletics or otherwise penalize a postsecondary educational institution as a  
175 result of a student athlete's receipt of compensation for the student athlete's name, image,  
176 likeness rights, or athletic reputation under this section;

177 (4) Prevent a postsecondary educational institution from establishing agreements with  
178 a third-party entity to act on its behalf to identify, facilitate, enable, or support student athlete  
179 name, image, and likeness activities;

180 (5) Entertain a complaint, open an investigation, or take any other adverse action  
181 against a postsecondary educational institution or any of its employees for engaging in any  
182 activity protected under this section;

183 (6) Penalize a postsecondary educational institution because an institutional  
184 marketing associate compensates a student athlete for use of his or her name, image,  
185 likeness rights, or athletic reputation, as protected under this section, or if a third party  
186 violates the collegiate athletic association's rules or regulations with regard to student athlete  
187 name, image, or likeness activities.

188 10. A student athlete shall have the right to obtain professional representation for the  
189 purpose of securing compensation for the use of his or her name, image, or likeness without  
190 penalty or resulting limitation on participating or effect on the student athlete's athletic grant-  
191 in-aid eligibility. Professional representation shall be by attorneys or agents licensed by this  
192 state. Any professional representation agreement shall be in writing, be executed by both  
193 parties, clearly describe the obligations of the parties, and outline fees for the professional  
194 representation.

195 11. (1) Any student athlete may bring a civil action against third parties that violate  
196 this section or that interfere with such student athlete's earning or attempting to earn  
197 compensation from the use of such student athlete's name, image, likeness rights, or athletic  
198 reputation for appropriate injunctive relief or actual damages, or both. Such action shall be  
199 brought in the county where the violation occurred, or is about to occur, and the court shall  
200 award damages and court costs to a prevailing plaintiff.

201 (2) Student athletes bringing an action under this section shall not be deprived of any  
202 protections provided under law with respect to a controversy that arises and shall have the  
203 right to adjudicate claims that arise under this section.

204 12. No legal settlement shall conflict with the provisions of this section.

205 13. This section shall apply only to agreements or contracts entered into, modified, or  
206 renewed on or after August 28, 2021. Such agreements or contracts include, but are not  
207 limited to, the national letter of intent, an athlete's financial aid agreement, commercial  
208 contracts in the athlete group licensing market, and athletic conference or athletic association  
209 rules or bylaws.

210 14. No postsecondary educational institution's employees, including athletics  
211 coaching staff, shall be liable for any damages to a student athlete's ability to earn  
212 compensation for the use of the student athlete's name, image, or likeness resulting from  
213 decisions or actions routinely taken in the course of intercollegiate athletics.

214 15. This section does not affect the rights of student athletes under Title IX of the  
215 Education Amendments of 1971 (20 U.S.C. Section 1681 et seq.).

216 ~~[16. (1) A high school athlete who competes on an interscholastic athletic team in  
217 this state that is sponsored by a public school or by a private school whose students compete  
218 against a public school's students may earn or attempt to earn compensation from the use of  
219 such athlete's name, image, likeness rights, or athletic reputation as provided in this section,  
220 subject to the following:~~

221 ~~(a) A high school athlete shall have the right to discuss earning or attempting to earn  
222 such compensation before signing an athletic letter of intent or other written agreement only  
223 when having discussions about potential enrollment with a postsecondary educational  
224 institution in this state; and~~

225 ~~(b) A high school athlete shall have the right to earn or attempt to earn such  
226 compensation only after signing an athletic letter of intent or other written agreement to enroll  
227 in a postsecondary educational institution in this state.~~

228 ~~(2) The discussion of, or earning or attempting to earn, compensation from the use of  
229 such high school athlete's name, image, likeness rights, or athletic reputation as provided in  
230 this section shall not be construed to be a violation of any rules and regulations a high school  
231 student and high schools are required to follow to maintain and protect a high school athlete's  
232 high school eligibility to participate in high school athletics in this state.]~~

✓