116TH CONGRESS
2D SESSION

H. R. ______

To prohibit a covered athletic association and institution of higher education from prohibiting a student athlete from participating in intercollegiate athletics because such student athlete enters into an endorsement contract, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GONZALEZ of Ohio (for himself and Mr. CLEAVER) introduced the following bill; which was referred to the Committee on

A BILL

To prohibit a covered athletic association and institution of higher education from prohibiting a student athlete from participating in intercollegiate athletics because such student athlete enters into an endorsement contract, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Student Athlete Level
5 Playing Field Act”.

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SEC. 2. STUDENT ATHLETES AND ENDORSEMENT CONTRACTS AND AGENCY CONTRACTS.

(a) Ability of a Student Athlete to Enter into an Endorsement Contract or an Agency Contract.—

(1) Prohibition.—Subject to the exceptions in paragraph (2), a covered athletic organization or institution of higher education may not prohibit a student athlete from participating in intercollegiate athletics because such student athlete enters into an endorsement contract or an agency contract.

(2) Exceptions for Endorsement Contracts.—A covered athletic organization or institution of higher education may prohibit a student athlete from entering into an endorsement contract with the following categories of brands, companies, or types of contracts:

(A) A tobacco company or brand, including any vaping device or e-cigarette or related product.

(B) Any alcohol company or brand.

(C) Any seller or dispensary of a controlled substance, including marijuana.

(D) Any adult entertainment business.

(E) Any casino or entities that sponsor or promote gambling activities.
(3) PERMISSIBLE PROHIBITIONS.—A student athlete may be prohibited from wearing any item of clothing or gear with the insignia of any entity during any athletic competition or university-sponsored event.

(b) ENFORCEMENT.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of this section shall be treated as an unfair and deceptive act or practice in violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(2) POWERS OF THE FTC.—The Federal Trade Commission shall enforce this section 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.). Any person that violates this section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Nothing in this Act shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.
SEC. 3. COVERED ATHLETIC ORGANIZATION COMMISSION.

(a) Establishment.—There is established the Covered Athletic Organization Commission (in this section referred to as the “Commission”), whose purpose shall be to—

(1) make recommendations to Congress and to each covered athletic organization about the implementation of name, image, and likeness rules;

(2) recommend to each covered athletic organization such a process to certify or recognize credentialed athlete agents;

(3) make recommendations for the establishment of an independent dispute resolution process, for any dispute arising between a student athlete and a covered athletic organization or institution of higher education; and

(4) and make recommendations for additional categories of endorsement contracts that are excepted under section 2(a)(2).

(b) Membership.—The Commission shall consist of 13 members appointed in accordance with subsection (c) from among or in accordance with the following:

(1) Institutions of higher education, including athletic directors and coaches.
(2) At least two individuals who are current or former student athletes who advocate for the interest of student athletes.

(3) The National Collegiate Athletic Association, athletic conference administrators, and administrators of other covered athletic organizations.

(4) Professionals with expertise in sports marketing, contracting, and public relations.

(5) Individuals—

(A) with expertise in corporate governance;

and

(B) who are not associated with any covered athletic association or institution of higher education.

(c) APPOINTMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, members of the Commission shall be appointed as follows:

(A) Three members appointed by the Speaker of the House of Representatives.

(B) Three members appointed by the minority leader of the House of Representatives.

(C) Three members appointed by the majority leader of the Senate.
(D) Three members appointed by the minority leader of the Senate.

    (E) One member, who shall be the chair of the Commission, selected by the members appointed under subparagraphs (A) through (D) not later than 60 days after the appointment of such members, and agreed upon by no fewer than eight of such members. If eight such members are unable to agree on an appointment under this subparagraph within such 60 day period, the Speaker of the House of Representatives shall make the appointment under this subparagraph.

    (2) DIVERSITY.—To the extent practicable, the Speaker and leaders making appointments under paragraph (1) shall coordinate their appointments to ensure that the Commission reflect diversity in gender, race, sport with which they are associated, as applicable, and divisions or conferences of applicable covered athletic organizations.

    (d) MEETINGS AND QUORUM.—Meetings of the Commission shall be held at the call of the chair appointed under subsection (c)(1)(E). A meeting may only be held where there is a quorum of at least 7 members, including not fewer than two members who are current or former
student athletes who advocate for the interest of student athletes.

(c) REPORT.—Not later than one, two, and three, years, respectively, after the Commission shall be constituted, it shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Transportation, and Science of the Senate annual reports that includes the recommendations in paragraphs (1) through (4) of subsection (a). The Commission shall also make such reports available to the public.

(f) SUNSET.—The Commission shall terminate 60 days after submitting the final report required under subsection (e).

SEC. 4. INSTITUTIONS OF HIGHER EDUCATION AND STUDENT ATHLETES WHO ENTER INTO ENDORSEMENT CONTRACTS.

Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following:

“(30) In the case of an institution that has a student attending the institution who is an athlete and has entered into an endorsement contract (as defined under section 2 of the Sports Agent Responsibility and Trust Act (15 U.S.C. 7801)) or an agent-
cy contract (as defined in section 9 of the Student Athlete Level Playing Field Act), such institution will not—

“(A) prohibit such student from entering into such an endorsement contract or an agency contract, including through a rule, standard, or policy that affects the eligibility of such student to receive athletically related student aid (as defined in section 485(e) of the Higher Education Act of 1965 (20 U.S.C. 1092(e)); or

“(B) compensate such student for the name, image, or likeness of such student.”.

SEC. 5. PROHIBITING UNFAIR AND DECEPTIVE PRACTICES AGAINST STUDENT ATHLETES.

(a) Prohibiting Unfair and Deceptive Practices by Boosters.—The Sports Agent Responsibility and Trust Act (15 U.S.C. 7801 et seq.) is amended—

(1) in section 2—

(A) by redesignating paragraphs (4) through (9) as paragraphs (5) though (10), respectively;

(B) by inserting after paragraph (3) the following new paragraph:

“(4) Booster.—The term ‘booster’ means an individual (other than an individual who is related to}
a student athlete) or an organization, including a
sponsor of an institution’s athletic program, that
provides substantial financial assistance or services
to the athletic program of an institution of higher
education or that promotes a team or athletic pro-
gram of an institution of higher education for such
individual’s or organization’s own substantial finan-
cial interest.”;

(2) by inserting after section 3 the following
new section:

“SEC. 3A REGULATION OF UNFAIR AND DECEPTIVE ACTS
AND PRACTICES IN CONNECTION WITH CON-
TACT BETWEEN A BOOSTER AND A STUDENT
ATHLETE.

“It is unlawful for a booster to directly or indirectly
provide or offer to provide any funds or thing of value
as an inducement for a student athlete to enroll or remain
at a specific institution or group of institutions.”; and

(3) in section 5(a)(1), by inserting “or by the
engagement of any booster in a practice that violates
section 3A” after “section 3”.

(b) ELIGIBILITY TO COMPETE AS A STUDENT ATH-
LETE AFTER ENTERING INTO AN AGENCY CONTRACT.—
Section 3(b)(3) of the Sports Agent Responsibility and
Trust Act (15 U.S.C. 7802(b)(3)) is amended in the
quoted part by inserting after “boldface type stating:” the following: “‘Notice to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract. Such notification must be within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first.’”.

(c) REPORT ON CLAIMS FILED PURSUANT TO THE SPORTS AGENT RESPONSIBILITY AND TRUST ACT.—The Sports Agent Responsibility and Trust Act (15 U.S.C. 7801 et seq.) is further amended by inserting after section 6 the following new section:

“SEC. 6A REPORT TO CONGRESS.

“Not later than 6 months after the date of enactment of this section, and annually thereafter, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing any investigation or enforcement action brought by the Commission pursuant to this Act, in-
including the number of complaints filed with the Commission pursuant to this Act.”.

SEC. 6. STATE PREEMPTION.

No State may enforce a State law or regulation with respect to permitting or abridging the ability of a student athlete attending an institution of higher education to enter into an endorsement contract or agency contract pursuant to this Act or by an amendment made by this Act.

SEC. 7. RULES OF CONSTRUCTION.

(a) TAX PROVISIONS.—Nothing in this Act or the amendments made by this Act shall affect the treatment of qualified scholarships under section 117 of the Internal Revenue Code of 1986.

(b) NONDISCRIMINATION OF STUDENT ATHLETES.—Nothing in this Act or the amendments made by this Act may be construed to affect the rights of student athletes or affect any program funded under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(c) ANTITRUST LAWS.—Nothing in this Act or the amendments made by this Act shall provide a cause of action pursuant to the Sherman Act (15 U.S.C. 1 et seq.).

(d) STUDENT ATHLETE NOT CONSIDERED AN EMPLOYEE.—Nothing in this Act or the amendments made by this Act shall affect the employment status of a student
athlete who enters into an endorsement contract with re-
spect to a covered athletic organization or institution of
higher education.

SEC. 8. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) institutions of higher education should de-
velop a course or program to assist student athletes
with understanding financial literacy with respect to
entering into an endorsement contract; and

(2) the Federal Trade Commission should in-
vestigate each claim filed pursuant to the Sports
Agent Responsibility and Trust Act (15 U.S.C. 7801
et seq.).

SEC. 9. DEFINITIONS.

In this Act—

(1) the term “agency contract” means an oral
or written agreement in which a student athlete au-
thorizes a person to negotiate or solicit an endorse-
ment contract on behalf of the student athlete;

(2) the terms “athlete agent”, “endorsement
contract”, and “student athlete” shall have the same
meaning as such terms defined in section 2 of the
Sports Agent Responsibility and Trust Act (15
U.S.C. 7801);
the term “covered athletic organization” means an athletic association, conference, or other organization with authority over intercollegiate athletics or that administers intercollegiate athletics; and

(4) the term “institution of higher education” has the same meaning as that term under section 101 of the Higher Education Act (20 U.S.C. 1001).