

## HB0202S01 compared with HB0202

~~{deleted text}~~ shows text that was in HB0202 but was deleted in HB0202S01.

inserted text shows text that was not in HB0202 but was inserted into HB0202S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jordan D. Teuscher proposes the following substitute bill:

### STUDENT ATHLETE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill enacts provisions relating to the use of the name, image, or likeness of a student athlete who participates in an institution's ~~{collegiate}~~intercollegiate athletic program.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for certain allowed and prohibited uses of a student athlete's name, image, or likeness;
- ▶ ~~{allows certain parties to:~~

~~assist and recruit}~~prohibits an Institution of Higher Education from using appropriated funds for purposes related to a student athlete~~;~~

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- ~~—• provide benefits to certain donors; and~~
- ~~—• promote student athletes; and~~
- ~~—→ prohibits certain athletic organizations from imposing certain restrictions}~~  
~~agreement.~~

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

**53B-16-601**, Utah Code Annotated 1953

**53B-16-602**, Utah Code Annotated 1953

~~{ **53B-16-603**, Utah Code Annotated 1953~~

~~— **53B-16-604**, Utah Code Annotated 1953~~

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53B-16-601** is enacted to read:

### **Part 6. Use of Student Athlete's Name, Image, and Likeness in Collegiate Athletics**

#### **53B-16-601. Definitions.**

As used in this part:

- ~~{ (1) "Athletic organization" means an athletic association, athletic conference, or other group or organization with authority over an intercollegiate athletic program.~~
- ~~— (2) "Booster" means an individual who:~~
  - ~~— (a) is or represents an alumni of an institution's collegiate athletic program;~~
  - ~~— (b) makes financial contributions to an institution's collegiate athletic program; and~~
  - ~~— (c) is considered a representative of the institution's athletics interests.~~
- ~~— (3) "Collective" means an individual, club, or organization that:~~
  - ~~— (a) is independent from an institution's collegiate athletic program;~~
  - ~~— (b) promotes an institution's collegiate athletic program;~~
  - ~~— (c) assists an institution's collegiate athletic program to recruit prospective student athletes; and~~

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~~— (d) assists or provides benefits to a student athlete who is enrolled in an institution's collegiate athletic program, or to the enrolled student athlete's family members;~~

~~— (e) facilitates activities to promote a student athlete's name, image, and likeness;~~

~~— (f) makes financial contributions to an institution's collegiate athletic program;~~

~~— (g) accepts donations from an institution's athletic program fans, boosters, or other individuals and entities; or~~

~~— (h) provides benefits to boosters in exchange for donations.~~

~~— (4) "Collegiate athletic program contract" means a scholarship, an agreement, or a contract entered into between an institution and a student athlete.~~

‡ ~~(5)~~1 "Institution" means:

(a) an institution of higher education described in Section 53B-1-102; or

(b) a private, nonprofit institution of higher education.

~~(6)~~2 "Intercollegiate athletics program" means an institution-sponsored athletic program or sporting activity in which a student athlete represents the student athlete's institution in competition against another institution.

~~(7)~~3 ~~"Loyalty points program" means a point system that a collective uses to determine recognition and priority of an institution's booster.~~

~~— (8) (a) "Name, image, or likeness" means a student athlete's use of the~~ **Prohibited endorsement provision** **means a provision that requires or permits the use of a** student athlete's name, image, or likeness~~;~~

~~— (i) to promote a business, product, service, or individual; and~~

~~— (ii) for which the student athlete may receive financial compensation or benefits for promotion.~~

~~— (b) "Name, image, or likeness" includes a student athlete's promotion of a business, product, service, or individual through an identifiable social media account, website, or other platform.~~

~~— (9) "Prohibited endorsement" means a student athlete's endorsement of a business, product, or service~~ to promote:

(a) **a** tobacco **product** or e-cigarettes, as those terms are defined in Section 76-10-101, including vaping;

(b) an alcoholic product, as that term is defined in Section 32B-1-102;

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(c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and marijuana;

(d) gambling or betting;

(e) a sexually oriented business, as that term is defined in Section 17-50-331; or

(f) a firearm that the student athlete cannot legally purchase.

(10) (a) "~~{Professional service provider}~~ **Student athlete**" means an individual who ~~provides third-party services to a prospective or current~~;

(i) is enrolled in an institution; and

(ii) participates as an athlete for the institution in an intercollegiate athletics program.

(b) "Student athlete" includes an agent or other representative of a student athlete.

(5) "Student athlete agreement" means a proposed or executed contract:

(a) between a student athlete ~~{relating to the use of}~~ and a third party that is not an institution; and

(b) in which the student athlete and third party agree that the student athlete's name, image, or likeness ~~is~~

~~\_\_\_\_\_ (b) "Professional service provider" does not include an individual who acts solely on behalf of a professional sports team or organization.~~

~~\_\_\_\_\_ (11) "Prohibited endorsement" means a student athlete's endorsement of~~ **may be used to promote** a business, product, ~~{or service to promote}~~

~~\_\_\_\_\_ (a) tobacco or e-cigarettes, as those terms are defined in Section 76-10-101, including vaping;~~

~~\_\_\_\_\_ (b) an alcoholic product, as that term is defined in Section 32B-1-102;~~

~~\_\_\_\_\_ (c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and marijuana;~~

~~\_\_\_\_\_ (d) gambling or betting;~~

~~\_\_\_\_\_ (e) a sexually oriented business, as that term is defined in Section 17-50-331; or~~

~~\_\_\_\_\_ (f) a firearm that~~ **service, or individual in exchange for** the student athlete ~~{cannot legally purchase}~~ **receiving financial compensation or other benefits.**

Section 2. Section **53B-16-602** is enacted to read:

**53B-16-602. Use of a student athlete's name, image, or likeness in ~~{collegiate athletic}~~ **intercollegiate athletics** programs -- Contracts -- Exceptions -- Prohibitions.**

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~~(1) A student athlete participating in a collegiate athletic program shall disclose to the institution any contract entered into between the student athlete and a professional services provider for the use of the student athlete's name, image, and likeness before entering into the contract.~~

~~—— (2) A student athlete and a professional service provider who enter into a contract for the use of the student athlete's name, image, and likeness, shall comply with state licensing requirements and the institution's policies and procedures.~~

~~—— (3) Except as provided in Subsection (4), a student athlete may not enter into a contract for the use of the student athlete's name, image, and likeness when:~~

~~—— (a) any provision of the contract conflicts with:~~

~~—— (i) the student athlete's collegiate athletic program contract;~~

~~—— (ii) the institution's collegiate athletic program contract;~~

~~—— (iii) the institution's contractual obligations; or~~

~~—— (iv) the institution's code of conduct and honor code policies and procedures;~~

~~—— (b) the student athlete receives compensation for the use of the student athlete's name, image, or likeness in exchange for:~~

~~—— (i) athletic performance or participation in a collegiate athletic program;~~

~~—— (ii) acceptance of admission offers to or enrollment in an institution;~~

~~—— (iii) an act that occurs while the student athlete is engaged in an official team activity;~~

~~or~~

~~—— (iv) agreement that contains a prohibited endorsement; or~~

~~—— (c) the duration of the contract extends beyond the student athlete's participation in the institution's collegiate athletic program.~~

~~—— (4) (a) An institution that identifies a contract provision described in Subsection (3) shall disclose the conflict to the provision.~~

(2) Before a student athlete or the prospective student athlete's professional service provider in writing within seven days after the day the conflict is identified:

—— (b) The athlete enters into a student athlete agreement that exceeds \$600 in value, the student athlete or proposed student athlete shall provide the student athlete agreement to the student athlete's professional service provider shall resolve any conflicting contract provisions identified by the institution within 10 days after the day the institution discloses the conflict.

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~~\_\_\_\_\_ (c) An institution may not authorize a contract for the use of the } or proposed student athlete's {name, image, or likeness if the conflict identified in Subsection (3) is not resolved within the time provided.~~

~~\_\_\_\_\_ (5) A } institution.~~

(3) An institution that receives a student athlete is not considered an employee of the institution based on the student athlete's participation in the collegiate athletic program.

~~\_\_\_\_\_ (6) A student athlete may not use an institution's facilities, uniform, registered trademark, copyright-protected product, or official logo, mark, or other institutional insignia in connection with a contract for the use of the student's name, image, or likeness unless:~~

~~\_\_\_\_\_ (a) } agreement under Subsection (2) shall provide the student athlete {receives the institution's written permission; and~~

~~\_\_\_\_\_ (b) the institution receives compensation in an amount consistent with market rates.~~

~~\_\_\_\_\_ (7) A student athlete may earn compensation from selling the student athlete's autograph in a manner that does not otherwise conflict with this part or with an institution's policies and procedures.~~

~~\_\_\_\_\_ Section 3. Section 53B-16-603 is enacted to read:~~

~~\_\_\_\_\_ **53B-16-603. Institutions and athletic organizations -- Prohibitions.**~~

~~\_\_\_\_\_ (1) Notwithstanding any other provision of this part, an institution may not:~~

~~\_\_\_\_\_ (a) adopt or enforce a policy, requirement, standard, or limitation that prohibits or otherwise prevents a student athlete participating in an intercollegiate athletic program from:~~

~~\_\_\_\_\_ (i) earning compensation for the use of the student athlete's name, image, or likeness when the student athlete is not engaged in an official team activity; or~~

~~\_\_\_\_\_ (ii) hiring a professional service provider to represent the student athlete in the use of the student athlete's name, image, or likeness;~~

~~\_\_\_\_\_ (b) provide or solicit from a } or prospective student athlete {of} with a written acknowledgment regarding whether the student athlete agreement conflicts with the institution's {intercollegiate athletic program with compensation in relation to the } policies or the provisions in this part.~~

(4) A student athlete agreement or any communication, or other material related to a student athlete agreement is not subject to Title 63G, Chapter 2, Government Records Access Management Act.

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(5) An institution may not use funds appropriated by the Legislature for any purpose related to a student athlete's or prospective student athlete's {name, image, or likeness, or

—— (c) disqualify a student athlete from eligibility for a scholarship, grant, or other financial assistance if the student athlete:

—— (i) earns compensation from the use of the student athlete's name, image, or likeness when the student athlete is not engaged in an official team activity; or

—— (ii) hires a professional service provider to represent the student athlete in the use of the student athlete's name, image, or likeness.

—— (2) An athletic organization may not:

—— (a) enforce the athletic organization's contract term, rule, regulation, or standard that prohibits an institution, an institution's collegiate athletic program, an institution's booster, a collective, or a student athlete from participating in a collegiate athletic program;

—— (b) prohibit an institution, an institution's collegiate athletic program, an institution's booster, or collective from identifying, facilitating, enabling, or supporting opportunities for a student athlete to earn compensation for use of the student athlete's name, image, or likeness; or

—— (c) penalize an institution, an institution's collegiate athletic program, an institution's booster, third-party collective, or a student athlete for supporting, performing, participating in, or allowing an activity required or authorized under this part.

—— Section 4. Section ~~53B-16-604~~ is enacted to read:

—— **53B-16-604. Disclaimer:**

—— (1) Notwithstanding any other provision of this part, compensation does not include:

—— (a) an institution, an institution's athletic program, an institution's booster, or a third-party collective from recognizing a booster, sponsor, or donor that:

—— (i) makes financial contributions to an institution's collegiate athletic program, booster, or third-party collective; or

—— (ii) compensates the student athlete for the use of the student athlete's name, image, and likeness;

—— (b) a scholarship, grant, or other financial assistance awarded to a student athlete by an institution that covers the student athlete's costs of attendance at the institution; or

—— (c) a scholarship, grant, or other financial assistance awarded to a student athlete that

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~~covers the student athlete's cost of attendance at an institution.~~

~~—— (2) No individual, entity, or organization may:~~

~~—— (a) enter into any arrangement with a } student athlete agreement that the student athlete  
or prospective student athlete {relating to the prospective student athlete's name, image, or  
likeness prior the student athlete's enrollment in an institution; or~~

~~—— (b) use inducements for future name, image, or likeness compensation to recruit a  
prospective student athlete to an institution;~~

~~—— (3) Nothing in this part limits or prevents:~~

~~—— (a) an institution's collegiate athletic program's employees from promoting;  
participating, or supporting an institution's booster or collective;~~

~~—— (b) an institution, an institution's representative or employee, or a collective from  
identifying, creating, facilitating, or assisting a student athlete with opportunities to earn  
compensation from a third-party for the use of a student athlete's name, image, or likeness; and~~

~~—— (c) a collective from creating a loyalty points program to recognize or provide benefits  
to donors;~~

~~—— (4) Notwithstanding Subsection (3)(b), an institution, a third party acting on behalf  
of, submits to the institution, an institution's employee, or collective may not:~~

~~—— (a) act as an agent for the student athlete;~~

~~—— (b) receive compensation for providing assistance;~~

~~—— (c) attempt to influence the student athlete's choice of professional representation in  
connection with an opportunity; or~~

~~—— (d) attempt to diminish the student athlete's opportunities from competing third parties;~~

~~—— (5) Nothing in this part prevents an athletic organization from enforcing the athletic  
organization's student athlete eligibility policies that do not conflict with the provisions in this  
part}.~~

Section ~~{5}~~3. **Effective date.**

This bill takes effect on May 1, 2024.