

1                   A bill to be entitled  
2           An act relating to intercollegiate athlete  
3           compensation and rights; amending s. 1006.74, F.S.;  
4           defining the term "mark"; deleting a requirement that  
5           compensation to a intercollegiate athlete be provided  
6           by certain third parties; authorizing certain entities  
7           and persons to cause compensation to be directed to a  
8           current intercollegiate athlete; prohibiting entities  
9           and persons who provide specified services to a  
10          postsecondary educational institution from causing  
11          compensation to be directed to a current or  
12          prospective intercollegiate athlete; prohibiting an  
13          intercollegiate athlete from entering into a  
14          compensation contract that conflicts with her or his  
15          athletic program or postsecondary educational  
16          institution, rather than team, contract; prohibiting  
17          certain parties from using a postsecondary educational  
18          institution's mark without written consent of such  
19          institution or its designee; prohibiting  
20          intercollegiate athletes from being considered  
21          employees of a postsecondary educational institution  
22          under certain circumstances; providing that  
23          postsecondary educational institutions and specified  
24          individuals are not liable for damages under certain  
25          circumstances; providing that postsecondary

26 | educational institutions and certain entities and  
27 | individuals are not required to take specified  
28 | actions; providing an effective date.

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30 | Be It Enacted by the Legislature of the State of Florida:

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32 | Section 1. Paragraph (c) of subsection (1) of section  
33 | 1006.74, Florida Statutes, is redesignated as paragraph (d),  
34 | subsection (3) is renumbered as subsection (6), paragraphs (a),  
35 | (c), and (h) of subsection (2) are amended, a new paragraph (c)  
36 | is added to subsection (1), paragraph (1) is added to subsection  
37 | (2), and a new subsection (3) and subsections (4) and (5) are  
38 | added to that section, to read:

39 | 1006.74 Intercollegiate athlete compensation and rights.—  
40 | The Legislature finds that intercollegiate athletics provide  
41 | intercollegiate athletes with significant educational  
42 | opportunities. However, participation in intercollegiate  
43 | athletics should not infringe upon an intercollegiate athlete's  
44 | ability to earn compensation for her or his name, image, or  
45 | likeness. An intercollegiate athlete must have an equal  
46 | opportunity to control and profit from the commercial use of her  
47 | or his name, image, or likeness, and be protected from  
48 | unauthorized appropriation and commercial exploitation of her or  
49 | his right to publicity, including her or his name, image, or  
50 | likeness.

51 (1) DEFINITIONS.—As used in this section, the term:  
52 (c) "Mark" means any trademark, service mark,  
53 certification mark, or collective mark entitled to registration  
54 under chapter 495 or the Trademark Act of 1946, as amended,  
55 regardless of whether it is registered, or any other trademark,  
56 indicia, logo, uniform, or landmark associated with a  
57 postsecondary educational institution.

58 (2) INTERCOLLEGIATE ATHLETE COMPENSATION AND RIGHTS AND  
59 POSTSECONDARY EDUCATIONAL INSTITUTION RESPONSIBILITIES.—

60 (a) An intercollegiate athlete at a postsecondary  
61 educational institution may earn compensation for the use of her  
62 or his name, image, or likeness. Such compensation must be  
63 commensurate with the market value of the authorized use of the  
64 athlete's name, image, or likeness. To preserve the integrity,  
65 quality, character, and amateur nature of intercollegiate  
66 athletics and to maintain a clear separation between amateur  
67 intercollegiate athletics and professional sports, such  
68 compensation may not be provided in exchange for athletic  
69 performance or attendance at a particular institution ~~and may~~  
70 ~~only be provided by a third party unaffiliated with the~~  
71 ~~intercollegiate athlete's postsecondary educational institution.~~

72 (c) A postsecondary educational institution; an entity  
73 whose purpose includes supporting or benefiting the institution  
74 or its athletic programs; or an officer, director, or employee  
75 of such institution or entity may not compensate ~~or cause~~

76 ~~compensation to be directed to~~ a current or prospective  
 77 intercollegiate athlete for her or his name, image, or likeness.  
 78 However, such institution, entity, or officer, director, or  
 79 employee of such institution or entity may, through an act that  
 80 does not conflict with any provision of this section, cause  
 81 compensation to be directed to a current intercollegiate athlete  
 82 for her or his name, image, or likeness. An entity that, by  
 83 contract or other agreement with a postsecondary educational  
 84 institution, provides disclosures, compliance, or educational  
 85 services under this section for a postsecondary educational  
 86 institution or an officer, director, or employee of such entity  
 87 may not cause compensation to be directed to a current or  
 88 prospective intercollegiate athlete for her or his name, image,  
 89 or likeness.

90 (h) An intercollegiate athlete may not enter into a  
 91 contract for compensation for the use of her or his name, image,  
 92 or likeness if a term of the contract conflicts with a term of  
 93 the intercollegiate athlete's athletic program or postsecondary  
 94 educational institution ~~team~~ contract. A postsecondary  
 95 educational institution asserting a conflict under this  
 96 paragraph must disclose each relevant contract term that  
 97 conflicts with the athletic program or postsecondary educational  
 98 institution ~~team~~ contract to the intercollegiate athlete or her  
 99 or his representative.

100 (l) Any party in an agreement to compensate an

101 intercollegiate athlete for the use of her or his name, image,  
102 or likeness may not use a postsecondary educational  
103 institution's mark without the express written consent of such  
104 postsecondary educational institution or the institution's  
105 designee.

106 (3) INTERCOLLEGIATE ATHLETE EMPLOYMENT STATUS.—An  
107 intercollegiate athlete at a postsecondary educational  
108 institution is not considered an employee of the institution  
109 based on her or his participation in its athletic programs or  
110 compensation earned for the use of her or his name, image, or  
111 likeness.

112 (4) LIMITATION OF LIABILITY.—A postsecondary educational  
113 institution or an employee of such institution, including an  
114 athletic coach, is not liable for any damages to an  
115 intercollegiate athlete's ability to earn compensation for the  
116 use of her or his name, image, or likeness resulting from  
117 decisions and actions routinely taken in the course of  
118 intercollegiate athletics.

119 (5) OPPORTUNITIES FOR INTERCOLLEGIATE ATHLETES.—  
120 Notwithstanding any other provision of this section, a  
121 postsecondary educational institution; an entity whose purpose  
122 includes supporting or benefiting the institution or its  
123 athletic programs; or an officer, director, or employee of such  
124 institution or entity is not required to identify, create,  
125 facilitate, negotiate, or otherwise enable opportunities for an

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126 | intercollegiate athlete to earn compensation for the use of her  
127 | or his name, image, or likeness.

128 |       Section 2. This act shall take effect upon becoming a law.