STATE OF NEW YORK

5891

2021-2022 Regular Sessions

IN SENATE

March 22, 2021

Introduced by Sens. PARKER, BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to enacting the "New York collegiate athletic participation compensation act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "New York collegiate athletic participation compensation act".

§ 2. The education law is amended by adding two new sections 6438-a and 6438-b to read as follows:

§ 6438-a. Student-athlete compensation. 1. (a) A college shall not uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation pursuant to this section including as a result of the use of the student's name, image, or likeness. Earning compensation pursuant to this section including from the use of a student's name, image, or likeness shall not affect the student's scholarship eligibility.

(b) An athletic association, conference, or other group or organization with authority over intercollegiate athletics, including, but not limited to, the National Collegiate Athletic Association, shall not prevent a student of a college participating in intercollegiate athletics from earning compensation pursuant to this section including as a result of the use of the student's name, image, or likeness.

(c) An athletic association, conference, or other group or organization with authority over intercollegiate athletics, including, but not limited to, the National Collegiate Athletic Association, shall not prevent a college from participating in intercollegiate athletics as a result of the compensation of a student-athlete pursuant to this section including for the use of the student's name, image, or likeness.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(d) A community college shall be exempt from the requirements of this section.

2. A college, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not provide a prospective student-athlete with compensation in relation to the athlete's name, image, or likeness.

3. (a) A college, athletic association, conference, or other group or organization with authority over intercollegiate athletics shall not prevent a student-athlete participating in intercollegiate athletics from obtaining professional representation in relation to contracts or legal matters, including, but not limited to, representation provided by athlete agents or legal representation provided by attorneys.

(b) Professional representation obtained by student-athletes shall be from persons registered and/or licensed by the state. Professional representation provided by athlete agents shall be by persons registered pursuant to article thirty-nine-E of the general business law. Legal representation of student-athletes shall be by attorneys licensed pursuant to article fifteen of the judiciary law.

(c) Athlete agents representing student-athletes shall comply with the federal Sports Agent Responsibility and Trust Act, established in chapter 104 of title 15 of the United States Code, in their relationships with student-athletes.

4. A scholarship from the college in which a student is enrolled that provides the student with the cost of attendance at that institution is not compensation for purposes of this section, and a scholarship shall not be revoked as a result of earning compensation, obtaining legal representation or receiving funds through a college's wage fund pursuant to this section.

5. (a) A student-athlete shall not enter into a contract providing compensation to the athlete for use of the athlete's name, image, or likeness if a provision of the contract is in conflict with a provision of the athlete's team contract.

(b) A student-athlete who enters into a contract providing compensation to the athlete for use of the athlete's name, image, or likeness shall disclose the contract to an official of the college, to be designated by the college.

(c) A college asserting a conflict described in paragraph (a) of this subdivision shall disclose to the athlete or the athlete's legal representation the relevant contractual provisions that are in conflict.

6. After the effective date of this section, a new team contract or a renewal or modification of a team contract of a college's athletic program shall not prevent a student-athlete from using the athlete's name, image, or likeness for a commercial purpose when the athlete is not engaged in official team activities.

7. (a) Each college shall establish a sports injury health savings account and a wage fund pursuant to this subdivision. Such savings account and wage fund shall be funded with fifteen percent of the revenue earned from such college's athletics program. Half of such revenue shall be deposited into such sports injury health savings account and half shall be deposited into such wage fund.

(b) Each college's sports injury health savings account shall be established to provide a student-athlete who suffers a career ending or serious injury during a game or practice with compensation upon his or her graduation. The amount of such compensation and qualifying injuries shall be determined by the department. A qualifying injury shall be

verified by an independent health care provider not affiliated with such student-athlete's college.

(c) At the conclusion of each school year, each college's wage fund shall be divided evenly and paid to all student-athletes attending such college.

§ 6438-b. Community college athlete name, image and likeness working group. 1. There shall be established within the department by the chancellor of the state university of New York, the community college athlete name, image and likeness working group, to examine and review existing state university of New York athletic bylaws, state and federal laws and national athletic association bylaws regarding a college athlete's use of such athlete's name, image and likeness for compensation. The department shall provide necessary secretariat and support services to the working group.

2. (a) The community college athlete name, image and likeness working group shall consist of, but not be limited to, the following members:

(i) one representative from the office of the chancellor of the state university of New York;

(ii) at least two community college student-athletes appointed by the chancellor's office;

(iii) a community college athletic administrator appointed by the chancellor's office;

(iv) a community college athletic coach appointed by the chancellor's office;

(v) one member appointed by the governor;

(vi) one member appointed by the temporary president of the senate; and

(vii) one member appointed by the speaker of the assembly.

(b) All appointments to the working group shall be completed on or before July first, two thousand twenty-two.

3. On or before July first, two thousand twenty-three, the working group shall provide a report to the governor, the speaker of the assembly, the temporary president of the senate and the chancellor of the state university of New York, which contains such working group's findings and policy recommendations in connection with its review pursuant to subdivision one of this section.

§ 3. This act shall take effect immediately; provided, however, that section 6438-a of the education law, as added by section two of this act, shall take effect January 1, 2025.