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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To prohibit certain entities from barring a student athlete from participating in intercollegiate athletics as a result of such student athlete entering into an endorsement contract, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CAREY introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit certain entities from barring a student athlete from participating in intercollegiate athletics as a result of such student athlete entering 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Student Athlete Level Playing Field Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Ability of student athletes to enter agency and endorsement contracts.
- Sec. 3. Covered Athletic Organization Commission.
- Sec. 4. Institutions of higher education and student athletes who enter into endorsement contracts.
- Sec. 5. Prohibiting unfair or deceptive acts or practices against student athletes.
- Sec. 6. Registration of certain agents.
- Sec. 7. State preemption.
- Sec. 8. Rules of construction.
- Sec. 9. Sense of Congress.
- Sec. 10. Definitions.

1 **SEC. 2. ABILITY OF STUDENT ATHLETES TO ENTER AGENCY**
2 **AND ENDORSEMENT CONTRACTS.**

3 (a) IN GENERAL.—A covered athletic organization or
4 institution of higher education may not prohibit a student
5 athlete from participating in intercollegiate athletics as a
6 result of such student athlete entering into an agency con-
7 tract or an endorsement contract, or otherwise receiving
8 consideration for the name, image, or likeness of such stu-
9 dent athlete.

10 (b) LIMITATION ON ATHLETIC DEPARTMENTS.—An
11 agreement under which consideration is provided to a stu-
12 dent athlete for use of the name, image, or likeness of
13 the student athlete, including such an agreement between
14 an institution of higher education and a student athlete,
15 may not be negotiated, drafted, or funded by the athletic
16 department of the institution of higher education of the
17 student athlete or an institutional employee who reports
18 to such athletic department.

19 (c) INSIGNIA PROHIBITIONS.—A student athlete may
20 be prohibited, by the institution of higher education of the

1 student athlete, from wearing an item of clothing or gear
2 with the insignia of an entity during an athletic competi-
3 tion or athletic-related event that is sponsored by the insti-
4 tution.

5 (d) ENFORCEMENT BY FEDERAL TRADE COMMIS-
6 SION.—

7 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
8 TICES.—A violation of subsection (a) shall be treated
9 as a violation of a regulation under section
10 18(a)(1)(B) of the Federal Trade Commission Act
11 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-
12 tive acts or practices.

13 (2) POWERS OF COMMISSION.—The Federal
14 Trade Commission shall enforce subsection (a) in
15 the same manner, by the same means, and with the
16 same jurisdiction, powers, and duties as though all
17 applicable terms and provisions of the Federal Trade
18 Commission Act (15 U.S.C. 41 et seq.) were incor-
19 porated into and made a part of this Act. Any per-
20 son who violates such subsection shall be subject to
21 the penalties and entitled to the privileges and im-
22 munities provided in the Federal Trade Commission
23 Act.

24 (3) RULE OF CONSTRUCTION.—Nothing in this
25 section may be construed to limit the authority of

1 the Federal Trade Commission under any other pro-
2 vision of law.

3 **SEC. 3. COVERED ATHLETIC ORGANIZATION COMMISSION.**

4 (a) ESTABLISHMENT.—There is established the Cov-
5 ered Athletic Organization Commission (in this section re-
6 ferred to as the “Commission”), the purpose of which shall
7 be to make recommendations—

8 (1) to Congress and covered athletic organiza-
9 tions, on the implementation of name, image, and
10 likeness rules;

11 (2) to covered athletic organizations, on a proc-
12 ess for certifying or recognizing credentialed athlete
13 agents; and

14 (3) on the establishment of an independent dis-
15 pute resolution process for disputes arising between
16 a student athlete and a covered athletic organization
17 or an institution of higher education.

18 (b) MEMBERSHIP.—

19 (1) IN GENERAL.—The Commission shall con-
20 sist of 13 members appointed from among the fol-
21 lowing:

22 (A) Representatives of institutions of high-
23 er education, including athletic directors and
24 coaches.

1 (B) Individuals who are current or former
2 student athletes and who advocate for the inter-
3 ests of student athletes.

4 (C) Administrators of covered athletic or-
5 ganizations.

6 (D) Professionals with expertise in sports
7 marketing, contracting, and public relations.

8 (E) Individuals—

9 (i) with expertise in corporate govern-
10 ance; and

11 (ii) who are not associated with a cov-
12 ered athletic organization or institution of
13 higher education.

14 (2) STUDENT ATHLETE ADVOCATES.—At least
15 2 individuals described in paragraph (1)(B) shall be
16 appointed to the Commission.

17 (c) APPOINTMENT.—

18 (1) IN GENERAL.—Not later than 60 days after
19 the date of the enactment of this Act, 12 members
20 of the Commission shall be appointed as follows:

21 (A) 3 members appointed by the Speaker
22 of the House of Representatives.

23 (B) 3 members appointed by the minority
24 leader of the House of Representatives.

1 (C) 3 members appointed by the majority
2 leader of the Senate.

3 (D) 3 members appointed by the minority
4 leader of the Senate.

5 (2) CHAIR.—

6 (A) APPOINTMENT.—Not later than 60
7 days after the appointment of the initial 12
8 members of the Commission under paragraph
9 (1), 1 member shall be appointed to the Com-
10 mission by such members, upon agreement of 8
11 such members on the individual to be ap-
12 pointed.

13 (B) RESULT OF INABILITY TO REACH
14 AGREEMENT.—If agreement on an individual to
15 be appointed as a member of the Commission
16 under subparagraph (A) is not reached during
17 the time period described in that subparagraph,
18 the Speaker of the House of Representatives
19 shall make the appointment of such member.

20 (C) POSITION AS CHAIR OF THE COMMIS-
21 SION.—The member appointed to the Commis-
22 sion under this paragraph shall be the chair of
23 the Commission.

24 (3) DIVERSITY.—To the extent practicable, the
25 individuals making appointments under paragraphs

1 (1) and (2) shall coordinate their appointments to
2 ensure that the Commission reflects diversity with
3 respect to gender, race, and sport of association, as
4 applicable, and shall prioritize the appointment of
5 members unaffiliated with a division or conference of
6 a covered athletic organization.

7 (d) MEETINGS AND QUORUM.—

8 (1) MEETING AT CALL OF CHAIR.—Meetings of
9 the Commission shall be held at the call of the chair
10 of the Commission.

11 (2) QUORUM.—A meeting of the Commission
12 may only be held if there is a quorum of at least 7
13 members, including not fewer than 2 members who
14 are individuals described in subsection (b)(1)(B).

15 (e) REPORT.—Not later than 1 year after the Com-
16 mission is constituted, and annually thereafter during the
17 subsequent 2-year period, the Commission shall submit to
18 the Committee on Energy and Commerce of the House
19 of Representatives and the Committee on Commerce,
20 Science, and Transportation of the Senate, and make
21 available to the public, a report on the activities of the
22 Commission that includes the recommendations made
23 under subsection (a).

24 (f) SUNSET.—The Commission shall terminate on the
25 date that is 60 days after the date on which the Commis-

1 sion submits the final report required under subsection
2 (e).

3 **SEC. 4. INSTITUTIONS OF HIGHER EDUCATION AND STU-**
4 **DENT ATHLETES WHO ENTER INTO EN-**
5 **DORSEMENT CONTRACTS.**

6 Section 487(a) of the Higher Education Act of 1965
7 (20 U.S.C. 1094(a)) is amended by adding at the end the
8 following:

9 “(30) In the case of an institution that has a
10 student attending the institution who is an athlete
11 at the institution and who is entering into an en-
12 dorsement contract (as defined in section 2 of the
13 Sports Agent Responsibility and Trust Act (15
14 U.S.C. 7801)) or an agency contract (as defined in
15 section 10 of the Student Athlete Level Playing
16 Field Act), such institution will not prohibit such
17 student from entering into such contract, including
18 through a rule, standard, or policy that affects the
19 eligibility of such student to receive athletically re-
20 lated student aid (as defined in section 485(e) of
21 this Act).”.

22 **SEC. 5. PROHIBITING UNFAIR OR DECEPTIVE ACTS OR**
23 **PRACTICES AGAINST STUDENT ATHLETES.**

24 (a) PROHIBITING UNFAIR OR DECEPTIVE ACTS OR
25 PRACTICES BY BOOSTERS.—The Sports Agent Responsi-

1 bility and Trust Act (15 U.S.C. 7801 et seq.) is amend-
2 ed—

3 (1) in section 2—

4 (A) by redesignating paragraphs (4)
5 through (9) as paragraphs (5) through (10), re-
6 spectively; and

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

9 “(4) BOOSTER.—The term ‘booster’ means an
10 individual (other than an individual who is related to
11 an applicable student athlete) or an organization (in-
12 cluding a sponsor) that provides substantial financial
13 assistance or services to the athletic program of an
14 educational institution or that promotes a team or
15 athletic program of an educational institution for
16 purposes of the substantial financial interest of the
17 individual or organization.”;

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

20 **“SEC. 3A. REGULATION OF UNFAIR OR DECEPTIVE ACTS OR**
21 **PRACTICES IN CONNECTION WITH CONTACT**
22 **BETWEEN A BOOSTER AND A STUDENT ATH-**
23 **LETE.**

24 “It is unlawful for a booster to directly or indirectly
25 provide or offer to provide any funds or thing of value

1 as an inducement for a student athlete to enroll at a spe-
2 cific educational institution or group of such institutions,
3 including that a booster may not orally or in writing enter
4 into a contract or agreement with a prospective student
5 athlete to provide the prospective student athlete with con-
6 sideration for the use of the name, image, or likeness of
7 the prospective student athlete until the prospective stu-
8 dent athlete enrolls full time at the relevant institution.”;
9 and

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

13 (b) ELIGIBILITY TO COMPETE AS A STUDENT ATH-
14 LETE AFTER ENTERING INTO AN AGENCY CONTRACT.—

15 (1) IN GENERAL.—Section 3(b)(3) of the
16 Sports Agent Responsibility and Trust Act (15
17 U.S.C. 7802(b)(3)) is amended by striking “boldface
18 type stating:” and all that follows through the end
19 of the paragraph and inserting the following: “bold-
20 face type stating: ‘Notice to Student Athlete: If you
21 agree orally or in writing to be represented by an
22 agent now or in the future, both you and the agent
23 you are agreeing to be represented by must notify
24 the athletic director of the educational institution at
25 which you are enrolled, or another individual respon-

1 sible for the athletic programs at such educational
2 institution, that you have entered into an agency
3 contract. Such notification must be made within 72
4 hours after entering into the agreement or before
5 the next athletic event in which you are eligible to
6 participate, whichever occurs first.’”.

7 (2) CLEARINGHOUSE.—

8 (A) ESTABLISHMENT.—Not later than 180
9 days after the date of the enactment of this
10 Act, the Federal Trade Commission shall estab-
11 lish a clearinghouse for endorsement contracts
12 entered into by student athletes and athlete
13 agents who represent student athletes.

14 (B) AGREEMENT DISCLOSURE RE-
15 QUIRED.—

16 (i) IN GENERAL.—The Federal Trade
17 Commission shall require each student ath-
18 lete and each athlete agent who represents
19 student athletes to disclose to the clearing-
20 house established under subparagraph (A)
21 each endorsement contract entered into by
22 such student athlete or such agent with a
23 value of more than \$500.

24 (ii) TIMING.—Disclosure of a contract
25 under clause (i) shall be made not later

1 than 72 hours after agreement on the con-
2 tract.

3 (C) NOTIFICATION OF INSTITUTIONS.—

4 The Clearinghouse established under subpara-
5 graph (A) shall notify the relevant institution of
6 higher education about each contract disclosed
7 under this paragraph and shall make such dis-
8 closures available to the public on a regular
9 basis.

10 (c) REPORT ON CLAIMS FILED PURSUANT TO THE
11 SPORTS AGENT RESPONSIBILITY AND TRUST ACT.—The
12 Sports Agent Responsibility and Trust Act (15 U.S.C.
13 7801 et seq.), as amended by this Act, is further amended
14 by inserting after section 6 the following new section:

15 **“SEC. 6A. REPORT TO CONGRESS.**

16 “Not later than 180 days after the date of the enact-
17 ment of this section, and annually thereafter, the Commis-
18 sion shall submit to the Committee on Energy and Com-
19 merce of the House of Representatives and the Committee
20 on Commerce, Science, and Transportation of the Senate
21 a report summarizing any investigations or enforcement
22 actions brought by the Commission pursuant to this Act
23 during the preceding 1-year period, including the number
24 of complaints filed with the Commission pursuant to this
25 Act during such period.”.

1 **SEC. 6. REGISTRATION OF CERTAIN AGENTS.**

2 (a) PROGRAM.—Not later than 180 days after the
3 date of the enactment of this Act, the Federal Trade Com-
4 mission shall establish a program to register athlete
5 agents for student athletes.

6 (b) REGISTRATION REQUIRED.—Upon establishment
7 of the program required under subsection (a), a person
8 who enters into an agency contract with a student athlete
9 shall register with the Federal Trade Commission as an
10 athlete agent for student athletes.

11 (c) NO COST FOR REGISTRATION.—The Federal
12 Trade Commission may not charge a fee in relation to a
13 registration under this section.

14 (d) ENFORCEMENT BY FEDERAL TRADE COMMIS-
15 SION.—

16 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
17 TICES.—A violation of subsection (b) shall be treated
18 as a violation of a regulation under section
19 18(a)(1)(B) of the Federal Trade Commission Act
20 (15 U.S.C. 57a(a)(1)(B)) regarding unfair or decep-
21 tive acts or practices.

22 (2) POWERS OF COMMISSION.—The Federal
23 Trade Commission shall enforce subsection (b) in
24 the same manner, by the same means, and with the
25 same jurisdiction, powers, and duties as though all
26 applicable terms and provisions of the Federal Trade

1 Commission Act (15 U.S.C. 41 et seq.) were incor-
2 porated into and made a part of this Act. Any per-
3 son who violates such subsection shall be subject to
4 the penalties and entitled to the privileges and im-
5 munities provided in the Federal Trade Commission
6 Act.

7 (3) RULE OF CONSTRUCTION.—Nothing in this
8 section may be construed to limit the authority of
9 the Federal Trade Commission under any other pro-
10 vision of law.

11 **SEC. 7. STATE PREEMPTION.**

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

17 **SEC. 8. RULES OF CONSTRUCTION.**

18 (a) TAX.—Nothing in this Act, or the amendments
19 made by this Act, may be construed to affect the treat-
20 ment of qualified scholarships under section 117 of the
21 Internal Revenue Code of 1986.

22 (b) NONDISCRIMINATION.—Nothing in this Act, or
23 the amendments made by this Act, may be construed to
24 affect the rights of student athletes, or affect any program

1 funded, under title IX of the Education Amendments of
2 1972 (20 U.S.C. 1681 et seq.).

3 (c) ANTITRUST.—Nothing in this Act, or the amend-
4 ments made by this Act, may be construed to provide a
5 cause of action pursuant to the Sherman Act (15 U.S.C.
6 1 et seq.).

7 (d) EMPLOYEE STATUS.—Nothing in this Act, or the
8 amendments made by this Act, may be construed to affect
9 the employment status of a student athlete who enters into
10 an endorsement contract with respect to a covered athletic
11 organization or an institution of higher education.

12 **SEC. 9. SENSE OF CONGRESS.**

13 It is the sense of Congress that—

14 (1) institutions of higher education and covered
15 athletic organizations should develop a course or
16 program to assist student athletes with financial lit-
17 eracy with respect to entering into endorsement con-
18 tracts; and

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

23 **SEC. 10. DEFINITIONS.**

24 In this Act:

1 (1) AGENCY CONTRACT.—The term “agency
2 contract” means an oral or written agreement under
3 which a student athlete authorizes a person to nego-
4 tiate or solicit an endorsement contract on behalf of
5 the student athlete.

6 (2) ATHLETE AGENT.—The term “athlete
7 agent” has the meaning given that term in section
8 2 of the Sports Agent Responsibility and Trust Act
9 (15 U.S.C. 7801).

10 (3) COVERED ATHLETIC ORGANIZATION.—The
11 term “covered athletic organization” means an ath-
12 letic association, conference, or other organization
13 with authority over intercollegiate athletics or that
14 administers intercollegiate athletics.

15 (4) ENDORSEMENT CONTRACT.—The term “en-
16 dorsement contract” has the meaning given such
17 term in section 2 of the Sports Agent Responsibility
18 and Trust Act (15 U.S.C. 7801).

19 (5) INSTITUTION OF HIGHER EDUCATION.—The
20 term “institution of higher education” has the
21 meaning given that term in section 101 of the High-
22 er Education Act of 1965 (20 U.S.C. 1001).

23 (6) STUDENT ATHLETE.—The term “student
24 athlete” has the meaning given that term in section

1 2 of the Sports Agent Responsibility and Trust Act
2 (15 U.S.C. 7801).