

109TH CONGRESS
2D SESSION

H. R. 5289

To provide institutions of higher education with a right of action against entities that improperly regulate intercollegiate sports activities.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2006

Mr. JOHNSON of Illinois (for himself, Mr. HASTERT, Mr. BOYD, Mr. BOREN, and Mr. COSTELLO) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide institutions of higher education with a right of action against entities that improperly regulate intercollegiate sports activities.

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 “Protection of Univer-
5 sity Governance Act of 2006”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Voluntary collegiate self-regulation of inter-
2 collegiate sports activities is a traditional and desir-
3 able undertaking.

4 (2) The regulation of intercollegiate sports ac-
5 tivities significantly affects interstate commerce.

6 (3) Any attempt by an entity that regulates
7 intercollegiate sports activities to impose its view of
8 correct social policy on institutions of higher edu-
9 cation participating in such activities is inimical to
10 the traditions of higher education in America and is
11 inconsistent with university governance and aca-
12 demic freedom. Attempts to regulate institutions in
13 this manner detract from the diversity of America
14 and the independence of thought and spirit that are
15 the essence of higher education in this Nation.

16 **SEC. 3. IMPROPER ACTIONS BY ENTITIES THAT REGULATE**
17 **INTERCOLLEGIATE SPORTS ACTIVITIES.**

18 (a) IN GENERAL.—An entity that regulates inter-
19 collegiate sports activities shall not impose any penalty or
20 sanction on, or deny any benefit to, an institution of high-
21 er education by reason of the team name, symbol, emblem,
22 or mascot of any intercollegiate sports activity of such in-
23 stitution.

24 (b) LIABILITY.—An entity that regulates intercolle-
25 giate sports activities shall be liable to an institution of

1 higher education that is aggrieved by such entity as a re-
2 sult of any violation of subsection (a). In any action
3 brought under this subsection, the entity that regulates
4 intercollegiate sports activities may be subject to injunc-
5 tion and shall be liable to the aggrieved institution of high-
6 er education for any damages caused thereby, including
7 reasonable attorneys' fees and costs.

8 (c) JURISDICTION.—Any action brought under sub-
9 section (b) may be filed in an appropriate district court
10 of the United States.

11 **SEC. 4. DEFINITIONS.**

12 In this Act:

13 (1) ENTITY THAT REGULATES INTERCOLLE-
14 GIATE SPORTS ACTIVITIES.—The term “entity that
15 regulates intercollegiate sports activities” means any
16 entity that regulates intercollegiate sports activities
17 and that is not a Federal, State, Tribal, territorial,
18 or local government entity.

19 (2) INSTITUTION OF HIGHER EDUCATION.—The
20 term “institution of higher education” means an in-
21 stitution defined in section 102 of the Higher Edu-
22 cation Act of 1965 (20 U.S.C. 1002), except that
23 such term does not include an institution described
24 in subsection (a)(1)(C) of that section.

1 **SEC. 5. SEVERABILITY AND EFFECTIVE DATE.**

2 (a) SEVERABILITY.—The provisions of this Act are
3 severable. If any provision of this Act, or any application
4 thereof, is found unconstitutional, that finding shall not
5 affect any provision or application of the Act not so adju-
6 dicated.

7 (b) EFFECTIVE DATE.—This Act shall apply to any
8 violation of section 3(a) by an entity that regulates inter-
9 collegiate sports activities which occurs on or after August
10 4, 2005.

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