

117TH CONGRESS
1ST SESSION

S. 414

To provide standards relating to compensation for the use of the names, images, and likenesses of amateur intercollegiate athletes and to provide protections for amateur intercollegiate athletes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2021

Mr. MORAN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide standards relating to compensation for the use of the names, images, and likenesses of amateur intercollegiate athletes and to provide protections for amateur intercollegiate athletes, 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.**

4 This Act may be cited as the “Amateur Athletes Pro-
5 tection and Compensation Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) AGENCY CONTRACT.—The term “agency
2 contract” means a written agreement in which an
3 amateur intercollegiate athlete authorizes an ama-
4 teur athlete representative to act on behalf of the
5 amateur intercollegiate athlete.

6 (2) AIAC.—The term “AIAC” means the Ama-
7 teur Intercollegiate Athletics Corporation established
8 by section 8(a).

9 (3) AMATEUR ATHLETE REPRESENTATIVE.—

10 (A) IN GENERAL.—The term “amateur
11 athlete representative” means an individual
12 who—

13 (i) enters into an agency contract with
14 an amateur intercollegiate athlete; or

15 (ii) directly or indirectly recruits or
16 solicits an amateur intercollegiate athlete
17 for the purpose of—

18 (I) entering into an agency con-
19 tract with the amateur intercollegiate
20 athlete;

21 (II) representing or attempting
22 to represent the amateur intercolle-
23 giate athlete for the purpose of mar-
24 keting his or her athletics ability or
25 reputation for financial gain; or

1 (III) seeking to obtain any type
 2 of financial gain or benefit from the
 3 potential earnings of the amateur
 4 intercollegiate athlete as a profes-
 5 sional athlete.

6 (B) INCLUSIONS.—The term “amateur
 7 athlete representative” includes—

- 8 (i) a certified contract advisor;
- 9 (ii) a financial advisor;
- 10 (iii) a marketing representative;
- 11 (iv) a brand manager; and
- 12 (v) any individual employed by or as-
 13 sociated with an individual described in
 14 any of clauses (i) through (iv).

15 (C) EXCLUSIONS.—The term “amateur
 16 athlete representative” does not include—

- 17 (i) the spouse, a parent, a sibling, a
 18 grandparent, or a legal guardian of an
 19 amateur intercollegiate athlete; or
- 20 (ii) an individual acting solely on be-
 21 half of a professional sports team or a pro-
 22 fessional sports organization.

23 (4) AMATEUR INTERCOLLEGIATE ATHLETE.—
 24 The term “amateur intercollegiate athlete” means
 25 an athlete who is or may be recruited to attend, or

1 is enrolled in, a 4-year degree-granting institution of
 2 higher education.

3 (5) AMATEUR INTERCOLLEGIATE ATHLETIC
 4 EVENT.—

5 (A) IN GENERAL.—The term “amateur
 6 intercollegiate athletic event” means a game,
 7 meet, competition, banquet, practice, condi-
 8 tioning session, media session, or any other
 9 event that has been organized or authorized by
 10 an athletics representative of an institution of
 11 higher education or by a national amateur ath-
 12 letic association, regardless of whether such
 13 event occurs on or off the campus of an institu-
 14 tion of higher education or during or outside
 15 the season for competition.

16 (B) INCLUSION.—The term “amateur
 17 intercollegiate athletic event” includes travel to
 18 and from any event described in subparagraph
 19 (A).

20 (6) AMATEUR INTERCOLLEGIATE ATHLETIC
 21 COMPETITION.—The term “amateur intercollegiate
 22 athletic competition” means any varsity game, meet,
 23 or other competition between or among teams spon-
 24 sored by institutions of higher education.

1 (7) ATHLETICS BOOSTER.—The term “athletics
2 booster” means any individual or entity that, di-
3 rectly or indirectly, through any other individual or
4 entity or in any other manner—

5 (A) has provided 1 or more donations ex-
6 ceeding \$5,000, in the aggregate, to obtain sea-
7 son tickets for any sport at an institution of
8 higher education;

9 (B) has made 1 or more financial contribu-
10 tions exceeding \$5,000, in the aggregate, to the
11 athletics department or other athletics manage-
12 ment organization of an institution of higher
13 education; or

14 (C) has assisted, or been requested by an
15 employee of an institution of higher education
16 to assist, in the recruitment of an amateur
17 intercollegiate athlete.

18 (8) CONFERENCE.—The term “conference”
19 means any organization or association that—

20 (A) has as members 2 or more institutions
21 of higher education;

22 (B) arranges championships and sets rules
23 for amateur intercollegiate athletic competition.

24 (9) COST OF ATTENDANCE.—The term “cost of
25 attendance”—

(A) has the meaning given the term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll); and

(B) shall be calculated by the financial aid office of an institution of higher education applying the same standards, policies, and procedures for all students.

(10) COVERED COMPENSATION.—

(A) IN GENERAL.—The term “covered compensation” means any remuneration, in cash or in kind and regardless of the date on which the remuneration is provided, to an amateur intercollegiate athlete.

(B) EXCLUSION.—The term “covered compensation” does not include the payment or provision of any of the following—

(i) grants-in-aid;

(ii) Federal Pell Grants and other State or Federal grants unrelated and not awarded with regard to participation in amateur intercollegiate athletic events;

(iii) health insurance and costs of health care, including health insurance and health care costs wholly or partly self-fund-

ed by an institution of higher education or
a national amateur athletic association;

(iv) disability and loss of value insurance, including disability and loss of value insurance that is wholly or partly self-funded by an institution of higher education or a national amateur athletic association;

(v) career counseling, job placement services, and other guidance available to all students at an institution of higher education; and

(vi) payment of hourly wages and benefits for work actually performed (and not for participation in amateur intercollegiate athletic event) at a rate commensurate with the going rate in the locality of an institution of higher education for similar work.

(11) ENDORSEMENT CONTRACT.—The term “endorsement contract” has the meaning given the term in section 2 of the Sports Agent Responsibility and Trust Act (15 U.S.C. 7801).

(12) FORMER AMATEUR INTERCOLLEGIATE ATHLETE.—The term “former intercollegiate ath-

lete” means an amateur intercollegiate athlete who is no longer eligible to participate in amateur intercollegiate athletic competition.

(13) GRANT-IN-AID.—The term “grant-in-aid”—

(A) means a scholarship, grant, stipend, or other form of financial assistance, including the provision of tuition, room, board, books, or funds for fees or personal expenses, that—

(i) is paid or provided by an institution of higher education to a student for the student’s undergraduate or graduate course of study; and

(ii) is in an amount that does not exceed the cost of attendance for such student at the institution; and

(B) does not include covered compensation paid to an individual who is an amateur intercollegiate athlete or a former amateur intercollegiate athlete.

(14) IMAGE.—The term “image”, with respect to an amateur intercollegiate athlete, means a photograph, video, or computer-generated representation that identifies, is linked to, or is reasonably linkable to the athlete.

1 (15) INSTITUTION OF HIGHER EDUCATION.—

2 The term “institution of higher education” has the
3 meaning given the term under section 101 of the
4 Higher Education Act of 1965 (20 U.S.C. 1001).

5 (16) LIKENESS.—The term “likeness” means—

6 (A) with respect to an amateur intercolle-
7 giate athlete of a sport for which the athlete
8 has a jersey number, the jersey number associ-
9 ated with the athlete and the sport in which the
10 athlete participates at a particular institution of
11 higher education during the period of the par-
12 ticipation of the athlete in the sport at the in-
13 stitution of higher education, if the jersey num-
14 ber is accompanied by—

15 (i) a logo or color scheme that is
16 clearly associated with the institution of
17 higher education; or

18 (ii) some other means by which the
19 jersey number is clearly associated with
20 the particular athlete; and

21 (B) with respect to any amateur intercolle-
22 giate athlete—

23 (i) the uniquely identifiable voice or
24 catch phrase of the athlete; or

1 (ii) any other trademark that identi-
 2 fies or distinguishes the athlete.

3 (17) NAME.—The term “name”, with respect to
 4 an amateur intercollegiate athlete, means—

5 (A) a combination of a first and last or
 6 family name that identifies the athlete;

7 (B) a last or family name that identifies
 8 the athlete; or

9 (C) a unique nickname that identifies the
 10 athlete.

11 (18) NATIONAL AMATEUR ATHLETIC ASSOCIA-
 12 TION.—

13 (A) IN GENERAL.—The term “national
 14 amateur athletic association” means a not-for-
 15 profit corporation, an association, or any other
 16 group organized in the United States that—

17 (i) sponsors or arranges amateur
 18 intercollegiate athletic competition between
 19 institutions of higher education; and

20 (ii) sets common rules, standards,
 21 procedures, or guidelines for the adminis-
 22 tration of amateur intercollegiate athletic
 23 competition at institutions of higher edu-
 24 cation.

1 (B) INCLUSIONS.—The term “national
2 amateur athletic association” includes—

3 (i) the National Collegiate Athletic
4 Association; and

5 (ii) each division and member con-
6 ference of the National Collegiate Athletic
7 Association, or of any other national ama-
8 teur athletic association, separately and
9 collectively.

10 (19) THIRD PARTY.—The term “third party”
11 means an individual or entity that—

12 (A) is not an athletics department or an
13 athletics booster of an institution of higher edu-
14 cation; and

15 (B) is unaffiliated with an athletics depart-
16 ment or an athletics booster of an institution of
17 higher education.

18 (20) UNAFFILIATED.—With respect to 2 or
19 more individuals or entities, the term “unaffiliated”
20 means that the individuals or entities do not share
21 interrelated operations, common management, cen-
22 tralized control of labor relations, or common owner-
23 ship or financial control.

1 **SEC. 3. COVERED COMPENSATION PROVIDED BY UNAFFILI-**
 2 **ATED THIRD PARTIES.**

3 The provision of covered compensation to an amateur
 4 intercollegiate athlete who is enrolled, or may in the future
 5 enroll, in an institution of higher education—

6 (1) may only be promised, paid, and permitted
 7 if the covered compensation is sourced from, and
 8 provided at the discretion of, a third party; and

9 (2) shall not be promised, paid, or permitted to
 10 induce—

11 (A) the recruitment of an amateur inter-
 12 collegiate athlete to any institution of higher
 13 education or a group of institutions of higher
 14 education; or

15 (B) an amateur intercollegiate athlete to
 16 continue attending a particular institution of
 17 higher education.

18 **SEC. 4. PROTECTIONS FOR AMATEUR INTERCOLLEGIATE**
 19 **ATHLETES.**

20 (a) REPRESENTATION CONTRACTS.—A national
 21 amateur athletic association or an institution of higher
 22 education may not punish or prohibit the participation of
 23 an amateur intercollegiate athlete in an amateur inter-
 24 collegiate athletic event or amateur intercollegiate athletic
 25 competition based on the amateur intercollegiate athlete
 26 having entered into an agency contract with an amateur

1 athlete representative who has been certified by the AIAC
2 in accordance with section 8(b)(4).

3 (b) ENDORSEMENT CONTRACTS.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), a national amateur athletic association or
6 an institution of higher education may not punish or
7 prohibit the participation of an amateur intercolle-
8 giate athlete in an intercollegiate athletic event or
9 amateur intercollegiate athletic competition based on
10 the amateur intercollegiate athlete having entered
11 into an endorsement contract with a third party.

12 (2) EXCEPTIONS.—A national amateur athletic
13 association or an institution of higher education may
14 prohibit the participation of an amateur intercolle-
15 giate athlete in an intercollegiate athletic event or
16 amateur intercollegiate athletic competition based on
17 the amateur intercollegiate athlete having entered
18 into an endorsement contract with a third party if
19 the contract violates—

20 (A) the code of student conduct of the ap-
21 plicable national amateur athletic association or
22 institution of higher education; or

23 (B) a rule established by the AIAC in ac-
24 cordance with section 8(b)(2).

1 (3) LIMITATION.—During and immediately be-
2 fore and after an amateur intercollegiate athletic
3 event, an institution of higher education may pro-
4 hibit an amateur intercollegiate athlete enrolled at
5 such institution from engaging in promotional or en-
6 dorsement activities in connection with an endorse-
7 ment contract.

8 (4) DISCLOSURES.—

9 (A) ENROLLED ATHLETES.—With respect
10 to an amateur intercollegiate athlete enrolled in
11 an institution of higher education who enters
12 into an endorsement contract, the amateur
13 intercollegiate athlete shall, not later than 7
14 days after entering into the endorsement con-
15 tract, provide to the institution of higher edu-
16 cation a copy of the endorsement contract.

17 (B) RECRUITED ATHLETES.—With respect
18 to an amateur intercollegiate athlete who is or
19 may be recruited to attend, but not yet enrolled
20 in, an institution of higher education and who
21 enters into an endorsement contract, the ama-
22 teur intercollegiate athlete shall, before signing
23 a letter of intent, provide to the institution of
24 higher education a copy of all current and ex-

1 pired endorsement contracts entered into by the
2 amateur intercollegiate athlete.

3 (c) RESCISSION OF AGREEMENTS.—An amateur
4 intercollegiate athlete who no longer participates in ama-
5 teur intercollegiate athletic competitions may rescind an
6 endorsement contract with a remaining term of more than
7 1 year—

8 (1) without being held liable for breach; and

9 (2) with no obligation to return payments re-
10 ceived before giving notice of the rescission.

11 (d) PROFESSIONAL SPORTS DRAFTS.—A national
12 amateur athletic association or an institution of higher
13 education may not prohibit the participation of an ama-
14 teur intercollegiate athlete in an amateur intercollegiate
15 athletic event based on the amateur intercollegiate athlete
16 having entered into a professional sports draft, if the ama-
17 teur intercollegiate athlete—

18 (1) does not receive compensation, directly or
19 indirectly, from—

20 (A) a professional sports league;

21 (B) a professional sports team; or

22 (C) a sports agent;

23 (D) an amateur athlete representative; or

1 (E) any individual or entity affiliated with
 2 an individual or entity described in any of sub-
 3 paragraphs (A) through (D); and

4 (2) not later than 7 days after the completion
 5 of the draft, declares his or her intent to resume
 6 participation in amateur intercollegiate athletic com-
 7 petition.

8 (e) GRANT-IN-AID PROTECTION.—

9 (1) IN GENERAL.—Subject to paragraph (2), an
 10 institution of higher education shall honor the grant-
 11 in-aid of an amateur intercollegiate athlete.

12 (2) FORMER AMATEUR INTERCOLLEGIATE ATH-
 13 LETES.—An institution of higher education shall
 14 continue to provide a grant-in-aid covering full tui-
 15 tion, books, and fees to any former amateur inter-
 16 collegiate athlete who—

17 (A) received a full grant-in-aid while en-
 18 rolled at the institution of higher education;
 19 and

20 (B) has not completed his or her course of
 21 study for an undergraduate degree as a result
 22 of pursuing a career in professional sports.

23 (3) REVOCATION AND REINSTATEMENT.—

24 (A) REVOCATION.—An institution of high-
 25 er education may revoke the grant-in-aid of an

1 amateur intercollegiate athlete or a former
2 amateur intercollegiate athlete who—

3 (i) transfers to another institution of
4 higher education; or

5 (ii) does not—

6 (I) remain in good standing, de-
7 termined in accordance with—

8 (aa) the rules established by
9 the AIAC under section 8(b)(2);
10 or

11 (bb) in the case of an ama-
12 teur intercollegiate athlete who is
13 enrolled in an institution of high-
14 er education the standards of
15 which are more stringent than
16 the standards described in item
17 (aa), the standards of the institu-
18 tion of higher education;

19 (II) comply with the code of con-
20 duct of the institution of higher edu-
21 cation; and

22 (III) meet athletic program
23 standards and norms for participating
24 in mandatory team athletic activities.

(B) LIMITATIONS.—An institution of higher education may not revoke the grant-in-aid of an amateur intercollegiate athlete—

(i) on the basis of the amateur intercollegiate athlete's athletics ability, performance, or contribution to team success; or

(ii) as a result of an injury or illness or based on a physical or mental medical condition of the amateur intercollegiate athlete.

(C) REINSTATEMENT.—In the case of a revocation under subparagraph (A), an institution of higher education may reinstate grant-in-aid if the amateur intercollegiate athlete concerned reestablishes good standing.

(f) LIMITATION ON TRANSFER PENALTIES.—An amateur intercollegiate athletics association shall allow an amateur intercollegiate athlete in any sport to transfer from one institution of higher education to another not less than once without losing or delaying eligibility for intercollegiate athletics if—

(1) not less than 7 days before transferring, the amateur intercollegiate athlete provides to his or her athletic director notice of intent to transfer; and

1 (2) the transfer does not occur during—

2 (A) the season of the sport of the amateur
3 intercollegiate athlete; or

4 (B) the 60-day period before the com-
5 mencement of such season.

6 (g) MEDICAL EXPENSES.—Except as provided in
7 paragraph (3), the responsibilities of institutions of higher
8 education with respect to the health care coverage and
9 medical expenses of amateur intercollegiate athletes are as
10 follows:

11 (1) OUT-OF-POCKET EXPENSES.—

12 (A) INSTITUTIONS OF HIGHER EDUCATION
13 REPORTING \$20,000,000 OR MORE.—An institu-
14 tion of higher education that reports not less
15 than \$20,000,000 in total annual athletics rev-
16 enue to the Department of Education during
17 the academic year immediately preceding the
18 date of the last amateur intercollegiate athletic
19 competition of an amateur intercollegiate ath-
20 lete shall, during the 2-year period beginning on
21 the day after such last amateur intercollegiate
22 athletic competition, be financially responsible
23 for all out-of-pocket medical expenses, up to the
24 deductible, of the amateur intercollegiate ath-
25 lete's health care coverage for any injury or

1 communicable disease that was incurred or ac-
2 quired while the amateur intercollegiate athlete
3 was participating in an amateur intercollegiate
4 athletic event or an amateur intercollegiate ath-
5 letic competition.

6 (B) INSTITUTIONS OF HIGHER EDUCATION
7 REPORTING \$50,000,000 OR MORE.—An institu-
8 tion of higher education that reports not less
9 than \$50,000,000 in total annual athletics rev-
10 enue to the Department of Education during
11 the academic year immediately preceding the
12 date of the last amateur intercollegiate athletic
13 competition of an amateur intercollegiate ath-
14 lete shall, during the 4-year period beginning on
15 the day after such last amateur athletic com-
16 petition, be financially responsible for—

17 (i) providing or procuring the amateur
18 intercollegiate athlete's health care cov-
19 erage for any injury or communicable dis-
20 ease that was incurred or acquired while
21 the amateur intercollegiate athlete was
22 participating in an amateur intercollegiate
23 athletic event or an amateur intercollegiate
24 athletic competition; and

1 (ii) all out-of-pocket medical expenses,
 2 up to the deductible, for medical care for
 3 such injury or disease.

4 (2) SECOND OPINIONS.—During the enrollment
 5 of an amateur intercollegiate athlete in an institu-
 6 tion of higher education and continuing through the
 7 2-year period described in subparagraph (A) of para-
 8 graph (1) or the 4-year period described in subpara-
 9 graph (B) of that paragraph, as applicable, an insti-
 10 tution of higher education shall be financially re-
 11 sponsible for the expense of obtaining, for amateur
 12 intercollegiate athletes and former amateur inter-
 13 collegiate athletes, medical second opinions inde-
 14 pendent from the institution of higher education.

15 (3) EXCEPTION.—The responsibilities under
 16 paragraphs (1) and (2) shall not apply to an institu-
 17 tion of higher education in the case of an amateur
 18 intercollegiate athlete who transfers out of the insti-
 19 tution of higher education to continue participation
 20 in intercollegiate athletics elsewhere.

21 **SEC. 5. EMPLOYMENT MATTERS.**

22 Notwithstanding any other provision of Federal or
 23 State law, an amateur intercollegiate athlete shall not be
 24 considered an employee of an institution of higher edu-
 25 cation, a conference, or a national amateur athletic asso-

1 ciation based on the amateur intercollegiate athlete's par-
 2 ticipation in amateur intercollegiate athletic events or
 3 amateur intercollegiate athletic competitions.

4 **SEC. 6. TRANSPARENCY.**

5 (a) DISCLOSURES.—

6 (1) IN GENERAL.—An institution of higher edu-
 7 cation shall make the following legally binding dis-
 8 closures to each amateur intercollegiate athlete be-
 9 fore he or she commits to enroll in or attend the in-
 10 stitution of higher education:

11 (A) The amount and duration of grant-in-
 12 aid the institution of higher education will pro-
 13 vide to the amateur intercollegiate athlete, rel-
 14 ative to the most recent cost of attendance, for
 15 each academic school year and each summer
 16 session.

17 (B) The amount and duration of grant-in-
 18 aid the institution of higher education will pro-
 19 vide to assist the amateur intercollegiate athlete
 20 with undergraduate degree completion and
 21 graduate degree completion following the expi-
 22 ration of the intercollegiate athletics eligibility
 23 of the amateur intercollegiate athlete.

24 (C) The percentage of comprehensive med-
 25 ical coverage required, including any required

1 coverage to participate in intercollegiate ath-
2 letics or to enroll as a student, that will be paid
3 by the institution of higher education during
4 the period of intercollegiate athletics eligibility
5 of the amateur intercollegiate athlete.

6 (D) The percentage of any out-of-pocket
7 sports-related medical expenses including
8 deductibles, copays, and coinsurance, that the
9 institution of higher education will pay during
10 the period of intercollegiate athletics eligibility
11 of the amateur intercollegiate athlete, and the
12 period for which such expenses will be covered
13 after such eligibility expires. Differences be-
14 tween in-network and out-of-network expenses
15 shall be stated.

16 (E) Whether or not the institution of high-
17 er education will pay for a disability insurance
18 policy to cover the maximum available future
19 loss of earnings benefit based on market rates
20 of similarly situated amateur intercollegiate
21 athletes.

22 (2) RULE OF CONSTRUCTION.—Nothing in this
23 subsection shall be construed to require an institu-
24 tion of higher education to provide a benefit de-

1 scribed in any of subparagraphs (A) through (E) of
 2 paragraph (1) unless otherwise required by this Act.

3 (b) FUNDING TRANSPARENCY.—Section 485(e)(1) of
 4 the Higher Education Act of 1965 (20 U.S.C. 1092(e)(1))
 5 is amended—

6 (1) in subparagraph (E), by striking “and”
 7 after the semicolon;

8 (2) in subparagraph (F), by striking the period
 9 and inserting a semicolon; and

10 (3) by adding at the end of the following:

11 “(G) the total compensation of—

12 “(i) the athletic director of the insti-
 13 tutions;

14 “(ii) each head coach and each assist-
 15 ant coach of the institution, by sport;

16 “(H) the amount of Federal funds received
 17 by the institution of higher education; and

18 “(I) the amount of State funds received by
 19 the institution of higher education.”.

20 **SEC. 7. INSTITUTION REQUIREMENTS FOR FEDERAL STU-**
 21 **DENT LOAN PROGRAM.**

22 Section 487(a) of the Higher Education Act of 1965
 23 (20 U.S.C. 1094(a)) is amended by adding at the end the
 24 following:

25 “(30)(A) The institution will—

1 “(i) comply with the requirements of sec-
 2 tions 3, 4, 5, and 6 of the Amateur Athletes
 3 Protection and Compensation Act of 2021; and

4 “(ii) refrain from providing (or affecting or
 5 influencing any third party to provide)—

6 “(I) any covered compensation to any
 7 amateur intercollegiate athlete; or

8 “(II) any financial aid, participation
 9 benefit, licensing revenue, or other benefit
 10 or payment to an amateur intercollegiate
 11 athlete for use of the athlete’s name,
 12 image, or likeness.

13 “(B) In this paragraph, the terms ‘amateur
 14 intercollegiate athlete’, ‘covered compensation’,
 15 ‘image’, ‘likeness’, ‘name’, and ‘third party’ have the
 16 meanings given the terms in section 2 of the Ama-
 17 teur Athletes Protection and Compensation Act of
 18 2021.”.

19 **SEC. 8. ESTABLISHMENT OF THE AMATEUR INTERCOLLE-**
 20 **GIATE ATHLETICS CORPORATION.**

21 (a) ESTABLISHMENT.—There is established a govern-
 22 ment corporation, to be known as the “Amateur Intercolle-
 23 giate Athletics Corporation”, which shall not for any pur-
 24 pose be an agency or instrumentality of the United States

1 Government and shall be subject to the provisions of this
2 section.

3 (b) PURPOSES.—The purposes of the AIAC are as
4 follows:

5 (1) To serve as a clearinghouse for best prac-
6 tices with respect to the rights and protections of
7 amateur intercollegiate athletes who enter into agen-
8 cy contracts and endorsement contracts, including
9 by providing guidance to amateur intercollegiate ath-
10 letes concerning such contracts.

11 (2) To establish rules to enforce this Act and
12 impose fines, penalties, and sanctions on amateur
13 athlete representatives, institutions of higher edu-
14 cation, conferences, and national amateur athletic
15 associations that violate such rules.

16 (3) To coordinate with the Federal Trade Com-
17 mission to promulgate, administer, and enforce
18 standards for reviewing and certifying endorsement
19 contracts entered into by amateur intercollegiate
20 athletes, including competency and ethical stand-
21 ards, that apply to—

- 22 (A) national amateur athletic associations;
- 23 (B) conferences;
- 24 (C) amateur intercollegiate athletes;
- 25 (D) institutions of higher education; and

1 (E) amateur athlete representatives.

2 (4) To establish a formal certification process
3 for amateur athlete representatives by which the
4 AIAC shall—

5 (A) determine the eligibility of an indi-
6 vidual to serve as an amateur athlete represent-
7 ative;

8 (B) periodically verify an amateur athlete
9 representative's continued eligibility and compli-
10 ance with this Act and the best practices, rules,
11 and competency and ethical standards estab-
12 lished under this subsection; and

13 (C) in the case of noncompliance with this
14 Act or any such best practice, rule, or com-
15 petency or ethical standard, revoke a certifi-
16 cation issued in accordance with this para-
17 graph.

18 (5) To provide recommendations to institutions
19 of higher education, national amateur athletic asso-
20 ciations, and conferences on protecting amateur
21 intercollegiate athletes from unscrupulous amateur
22 athlete representatives.

23 (6) To investigate disputes with respect to
24 agency contracts and endorsement contracts entered
25 into by amateur intercollegiate athletes, including—

1 (A) verifying that amateur athlete rep-
 2 resentatives involved in the endorsement con-
 3 tract process have acted in the best interests of
 4 amateur intercollegiate athletes; and

5 (B) monitoring compliance with, and mak-
 6 ing determinations and findings concerning vio-
 7 lations of, this Act.

8 (7) To provide to amateur intercollegiate ath-
 9 letes a process for the swift resolution of conflicts
 10 concerning agency contracts and endorsement con-
 11 tracts, including by providing a neutral arbitrator
 12 for any case in which an amateur intercollegiate ath-
 13 lete is the complaining party.

14 (8) To ensure institutions of higher education
 15 and covered athletic organizations are complying
 16 with agency contract and endorsement contract rules
 17 set forth by the AIAC in accordance with this sec-
 18 tion.

19 (c) MEMBERSHIP.—

20 (1) ELIGIBILITY.—Eligibility for membership in
 21 the AIAC shall be as provided in the constitution
 22 and bylaws of the AIAC.

23 (2) REQUIRED PROVISIONS FOR REPRESENTA-
 24 TION.—In its constitution and bylaws, the AIAC
 25 shall establish and maintain provisions with respect

1 to its governance and the conduct of its affairs for
 2 the reasonable representation of—

3 (A) amateur intercollegiate athletes;

4 (B) administrators of institutions of higher
 5 education, including directors of athletics;

6 (C) administrators of national amateur
 7 athletic associations;

8 (D) athletic conference administrators;

9 (E) professionals with expertise in sports
 10 marketing, contracting, and public relations;
 11 and

12 (F) individuals unaffiliated with any na-
 13 tional amateur athletic association who, in the
 14 judgment of the board of directors of the AIAC,
 15 represent the interest of providing oversight of
 16 the activities of the AIAC.

17 (d) BOARD OF DIRECTORS.—

18 (1) IN GENERAL.—The AIAC shall be governed
 19 by a board of directors comprised of 15 voting mem-
 20 bers.

21 (2) REPRESENTATION.—

22 (A) IN GENERAL.—Not less than $\frac{1}{3}$ of the
 23 membership of the board of directors of the
 24 AIAC shall be composed of current or former
 25 amateur intercollegiate athletes.

1 (B) CURRENT AMATEUR INTERCOLLE-
 2 GIATE ATHLETES.—Not less than 20 percent of
 3 the membership of the board of directors of the
 4 AIAC shall be composed of amateur intercolle-
 5 giate athletes who are—

6 (i) enrolled in a 4-year degree-grant-
 7 ing institution of higher education; and

8 (ii) actively engaged in amateur inter-
 9 collegiate athletic events.

10 (e) POWERS.—

11 (1) CONSTITUTION AND BYLAWS.—The AIAC
 12 shall adopt a constitution and bylaws.

13 (2) GENERAL CORPORATE POWERS.—The AIAC
 14 may—

15 (A) establish and maintain offices to con-
 16 duct the affairs of the AIAC;

17 (B) enter into contracts;

18 (C) accept gifts, legacies, and devises in
 19 furtherance of its corporate purposes;

20 (D) acquire, own, lease, encumber, and
 21 transfer property as necessary to carry out the
 22 purposes of the AIAC;

23 (E) borrow money, issue instruments of in-
 24 debtedness, and secure its obligations by grant-
 25 ing security interests in its property;

1 (F) publish a magazine, newsletter, and
 2 other publications consistent with its corporate
 3 purposes;

4 (G) approve and revoke membership in the
 5 AIAC; and

6 (H) conduct any other activity necessary
 7 and proper to carry out the purposes of the
 8 AIAC.

9 (3) SUBPOENA POWER.—The AIAC shall have
 10 subpoena power and shall adopt rules that will result
 11 in the AIAC, in response to appropriate requests,
 12 issuing subpoenas duces tecum and ad testificandum
 13 and compelling deposition testimony at the request
 14 of a national amateur athletic association.

15 (f) RESTRICTIONS.—

16 (1) PROFIT AND STOCK.—The AIAC may not
 17 engage in business for profit or issue stock.

18 (2) POLITICAL ACTIVITIES.—The AIAC shall be
 19 nonpolitical and may not promote the candidacy of
 20 an individual seeking public office.

21 (g) HEADQUARTERS, PRINCIPAL OFFICE, AND
 22 MEETINGS.—The AIAC shall maintain its principal office
 23 and national headquarters in a location in the United
 24 States decided by the AIAC. The AIAC may hold its an-

1 nual and special meetings in the places decided by the
2 AIAC.

3 (h) SERVICE OF PROCESS.—As a condition to the ex-
4 ercise of any power or privilege granted by this chapter,
5 the AIAC shall have a designated agent to receive service
6 of process for the AIAC. Notice to or service on the agent,
7 or mailed to the business address of the agent, is notice
8 to or service on the AIAC.

9 (i) REPORT.—Not less frequently than annually, the
10 AIAC shall submit to the Committee on Commerce,
11 Transportation, and Science of the Senate and the Com-
12 mittee on Energy and Commerce of the House of Rep-
13 resentatives a report that includes—

14 (1) the number of disputes investigated by the
15 AIAC in the preceding year pursuant to subsection

16 (b)(6);

17 (2) the number of such disputes filed in the
18 preceding year; and

19 (3) any recommendations to improve the en-
20 dorsement contract process.

21 **SEC. 9. ENFORCEMENT.**

22 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A
23 violation of this Act shall be treated as a violation of a
24 rule defining an unfair or deceptive act or practice pre-

1 scribed under section 18(a)(1)(B) of the Federal Trade
 2 Commission Act (15 U.S.C. 57a(a)(1)(B)).

3 (b) ACTIONS BY THE COMMISSION.—The Federal
 4 Trade Commission shall enforce this Act in the same man-
 5 ner, by the same means, and with the same jurisdiction,
 6 powers, and duties as though all applicable terms and pro-
 7 visions of the Federal Trade Commission Act (15 U.S.C.
 8 41 et seq.) were incorporated into and made a part of this
 9 Act.

10 **SEC. 10. ROLE OF NATIONAL AMATEUR ATHLETIC ASSOCIA-**
 11 **TIONS.**

12 A national amateur athletic association may establish
 13 rules, consistent with this Act and the rules developed
 14 under section 8(b)(2), and enforce such rules by—

15 (1) declaring ineligible for amateur intercolle-
 16 giate athlete competition an amateur intercollegiate
 17 athlete who receives payments in violation of such
 18 rules; and

19 (2) withholding 1 or more revenue distributions
 20 from an institution of higher education that makes
 21 payments in violation of such rules.

22 **SEC. 11. REPORTING.**

23 (a) BIENNIAL REPORT.—Not later than 180 days
 24 after the date of enactment of this Act, and biennially
 25 thereafter, the head of each national amateur athletic as-

1 socation shall submit to the Committee on Commerce,
 2 Science, and Transportation of the Senate and the Com-
 3 mittee on Energy and Commerce of the House of Rep-
 4 resentatives a report that includes—

5 (1) a summary of the systemic issues faced by
 6 the national amateur athletic association relating to
 7 compliance with this Act;

8 (2) a summary of the trends that are devel-
 9 oping among national amateur athletic associations,
 10 conferences, and institutions of higher education in
 11 response to the prohibitions under this Act; and

12 (3) recommendations for improvements to inter-
 13 collegiate athletics that would improve the health,
 14 safety, and educational opportunities of amateur
 15 intercollegiate athletes.

16 (b) INVESTIGATION AND REPORT.—Not later than 5
 17 years after the date of enactment of this Act and once
 18 every 5 years thereafter, the Comptroller General of the
 19 United States shall—

20 (1) conduct an investigation to assess compli-
 21 ance with this Act; and

22 (2) submit to Congress a report that includes—

23 (A) a summary of the investigation con-
 24 ducted under paragraph (1); and

1 (B) recommendations for improvements to
2 intercollegiate athletics that would improve the
3 health, safety, and educational opportunities of
4 amateur intercollegiate athletes.

5 **SEC. 12. LIMITATION OF LIABILITY.**

6 A national amateur athletic association, a conference,
7 or an institution of higher education that complies with
8 the requirements under this Act shall not be subject to
9 liability, based on action taken by the national amateur
10 athletic association, conference, or institution of higher
11 education before the date of enactment of this Act,
12 under—

13 (1) any Federal or State statute relating to
14 trade or competition; or

15 (2) any Federal or State statute relating to
16 tortious interference based on concepts of unfair
17 competition.

18 **SEC. 13. PREEMPTION.**

19 No State or political subdivision of a State may es-
20 tablish or continue in effect any law or regulation that
21 governs or regulates the compensation, intellectual prop-
22 erty rights, endorsement contracts, employment status, or
23 eligibility for an amateur intercollegiate athletic competi-
24 tion of any amateur intercollegiate athlete, including any
25 provision that governs or regulates the commercial use of

- 1 the name, image, or likeness of an amateur intercollegiate
- 2 athlete.

