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HOUSE BILL NO. 617

Offered January 10, 2024

Prefiled January 9, 2024

A *BILL to amend the Code of Virginia by adding in Article 1 of Chapter 13 of Title 22.1 a section numbered 22.1-212.2:4 and by adding in Article 2 of Chapter 2 of Title 23.1 a section numbered 23.1-212.2, relating to student-athletes; use of name, image, or likeness; high school students; Office of the Student-Athlete Name, Image, and Likeness Contract Ombudsman established.*

Patrons—Price, Bennett-Parker, Glass and Cousins

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 13 of Title 22.1 a section numbered 22.1-212.2:4 and by adding in Article 2 of Chapter 2 of Title 23.1 a section numbered 23.1-212.2 as follows:

§ 22.1-212.2:4. Interscholastic athletics; student-athletes; compensation and representation for name, image, or likeness.

A. As used in this section:

"Athlete agent" means an individual who holds a valid certificate of registration as an athlete agent issued pursuant to Chapter 5.2 (§ 54.1-526 et seq.) of Title 54.1.

"Attorney" means an attorney licensed to practice law in the Commonwealth.

"Compensation" means any type of remuneration or anything of value. "Compensation" does not include any (i) scholarship provided to a student-athlete that covers some or all of the cost of attendance at a high school at which the student-athlete is enrolled or (ii) benefit a student-athlete may receive in accordance with the rules of the relevant athletic association or conference.

"High school" means any public or private high school in the Commonwealth.

"Student-athlete" means an individual enrolled at high school who participates in interscholastic athletics.

B. No high school or agent thereof, athletic association, athletic conference, or other organization with authority over interscholastic athletics shall:

1. Prohibit or prevent a student-athlete from earning compensation for the use of his name, image, or likeness, except as otherwise permitted in this section;

2. Prohibit or prevent a student-athlete from obtaining professional representation by an athlete agent or legal representation by an attorney in connection with issues related to name, image, or likeness; or

3. Declare a student-athlete ineligible for interscholastic athletic competition because he earns compensation for the use of his name, image, or likeness or obtains professional representation by an athlete agent or legal representation by an attorney in connection with issues related to name, image, or likeness.

C. No athletic association, athletic conference, or other organization with authority over interscholastic athletics shall prohibit or prevent a high school from becoming a member of the association, conference, or organization or participating in interscholastic athletics sponsored by such association, conference, or organization as a consequence of any student-athlete earning compensation for the use of his name, image, or likeness or obtaining representation by an athlete agent or attorney in connection with issues related to name, image, or likeness.

D. No student-athlete shall earn compensation for the use of his name, image, or likeness in connection with any of the following:

1. Alcohol and alcoholic beverages;

2. Adult entertainment;

3. Cannabis, cannabinoids, cannabidiol, or other derivatives, not including hemp or hemp products;

4. Controlled substances, as defined in § 54.1-3401;

5. Performance enhancing drugs or substances such as steroids or human growth hormone;

6. Drug paraphernalia, as defined in § 18.2-265.1;

7. Tobacco, tobacco products, alternative nicotine products, nicotine vapor products, and similar products and devices;

8. Weapons, including firearms and ammunition for firearms; and

9. Casinos or gambling, including sports betting.

E. Any high school may prohibit a student-athlete from earning compensation for the use of his

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59 name, image, or likeness while the student-athlete is engaged in academic, official team, or athletic
60 program activities, including class, tutoring, competition, practice, travel, academic services, community
61 service, promotional activities, and other athletic program activities.

62 F. No student-athlete shall use a high school's facilities; apparel; equipment; uniforms; or
63 intellectual property, including logos, indicia, registered and unregistered trademarks, and products
64 protected by copyright, for any opportunity to earn compensation for the use of his name, image, or
65 likeness, unless otherwise permitted by such high school.

66 G. Prior to executing an agreement concerning the use of his name, image, or likeness, a
67 student-athlete shall disclose such agreement to the high school at which he is enrolled in a manner
68 designated by the high school. If a student-athlete discloses a potential agreement that conflicts with an
69 existing high school agreement, the high school shall disclose the relevant terms of the conflicting
70 agreement to the student-athlete.

71 H. A high school may prohibit a student-athlete from using his name, image, or likeness to earn
72 compensation if the proposed use conflicts with an existing high school agreement.

73 I. No high school shall, except as otherwise permitted in this section, enter into, renew, or modify
74 any agreement that prohibits a student-athlete from using his name, image, or likeness to earn
75 compensation while the student-athlete is engaged in non-academic, unofficial team, or non-athletic
76 program activities.

77 J. Nothing in this section shall be construed to impact the employment status of a student-athlete. No
78 student-athlete shall be considered an employee of a high school based on participation in
79 interscholastic athletics.

80 K. Any student-athlete who is aggrieved by any action of a high school or agent thereof, athletic
81 association, athletic conference, or other organization with authority over interscholastic athletics in
82 violation of any provision of this section may bring an action for injunctive relief.

83 **§ 23.1-212.2. Office of the Student-Athlete Name, Image, and Likeness Contract Ombudsman.**

84 A. The Council shall establish and employ such individuals as it deems appropriate in the Office of
85 the Student-Athlete Name, Image, and Likeness Contract Ombudsman (the Office).

86 B. The purpose of the office is to provide information, resources, and dispute resolution services to
87 high school and college student-athletes relating to name, image, and likeness contracts and the rights,
88 duties, and prohibitions set forth in §§ 22.1-212.2:4 and 23.1-408.1.