

**House File 628 - Introduced**

HOUSE FILE 628

BY WOOD

**A BILL FOR**

1 An Act relating to compensation and name, image, and likeness  
2 rights of student athletes at postsecondary educational  
3 institutions, providing remedies, and including applicability  
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **261K.1 Definitions.**

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "*Institutional marketing associate*" means any third-party  
5 entity that enters into an agreement with a postsecondary  
6 educational institution or its intercollegiate athletics program  
7 to market or promote the postsecondary educational institution  
8 or its intercollegiate athletics program, or to otherwise  
9 act on behalf of the postsecondary educational institution  
10 or the postsecondary educational institution's intercollegiate  
11 athletics program. "*Institutional marketing associate*" does not  
12 include a regulatory body, postsecondary educational institution,  
13 postsecondary educational institution staff member, or their  
14 respective officers, directors, managers, owners, or employees.

15 2. "*Postsecondary educational institution*" means an  
16 institution of higher education governed by the state board  
17 of regents, a community college, or a private postsecondary  
18 educational institution in this state.

19 3. "*Student athlete*" means an individual who is eligible  
20 to participate in, participates in, or has participated  
21 in an intercollegiate sport for a postsecondary educational  
22 institution. "*Student athlete*" does not include an individual  
23 who is eligible to participate in, participates in, or has  
24 participated in a college intramural sport or in a professional  
25 sport outside of intercollegiate athletics.

26 4. "*Third party*" means any individual or entity, including  
27 any athlete agent, other than a postsecondary educational  
28 institution, athletic conference, or athletic association.

29 5. "*Unique identifier*" means any of the following developed  
30 or adopted for marketing or promotional purposes by a  
31 postsecondary educational institution or a third party:

- 32 a. A seal.
- 33 b. A logo.
- 34 c. An emblem.
- 35 d. A motto.

- 1 e. A special symbol.
- 2 f. Institutional colors.
- 3 g. A modifier or descriptor.
- 4 h. A design.
- 5 i. A patentable or copyrightable item, material, or
- 6 information.
- 7 j. Any other item, material, or information that identifies
- 8 and is recognizable as unique to such postsecondary educational
- 9 institution or third party.

10 Sec. 2. NEW SECTION. **261K.2 Compensation of student**  
11 **athletes — professional representation.**

12 1. a. (1) A postsecondary educational institution shall not  
13 enforce any rule, requirement, standard, or other limitation of  
14 an athletic association or athletic conference that prevents  
15 a student athlete of that institution from fully participating  
16 in intercollegiate athletics without penalty or from earning  
17 compensation as a result of the use of the student athlete's  
18 name, image, likeness rights, or athletic reputation.

19 (2) A student athlete's financial aid eligibility, amount,  
20 duration, or renewal, or any other benefit for which the  
21 student athlete is otherwise eligible, shall not be affected by  
22 the student athlete earning compensation from the use of the  
23 student athlete's name, image, or likeness rights, or athletic  
24 reputation.

25 b. (1) A postsecondary educational institution shall not  
26 interfere with or prevent a student athlete from fully  
27 participating in intercollegiate athletics or obtaining  
28 professional representation without penalty in relation to  
29 contracts or legal matters relating to earning compensation as a  
30 result of the use of the student athlete's name, image, likeness  
31 rights, or athletic reputation, including but not limited to  
32 representation provided by athlete agents or financial advisors  
33 or legal representation provided by attorneys.

34 (2) Representation by athlete agents or financial advisors  
35 or legal representation provided by attorneys shall be provided

1 by individuals licensed in this state. Any professional  
2 representation agreement must be in writing, be executed by both  
3 parties, clearly describe the obligations of the parties, and  
4 outline fees for the professional representation.

5 Sec. 3. NEW SECTION. **261K.3 Financial aid.**

6 For purposes of this chapter, financial aid from a  
7 postsecondary educational institution in which a student athlete  
8 is enrolled shall not be considered compensation for use of  
9 the athlete's name, image, and likeness rights, or athletic  
10 reputation.

11 Sec. 4. NEW SECTION. **261K.4 Limitations on certain**  
12 **contracts.**

13 1. A student athlete shall not enter into an apparel,  
14 equipment, or beverage contract providing compensation to the  
15 athlete for use of the student athlete's name, image, likeness  
16 rights, or athletic reputation if the contract requires the  
17 student athlete to display a sponsor's apparel, equipment, or  
18 beverage or otherwise advertise for the sponsor during official  
19 team activities if such provisions are in conflict with a  
20 provision of the postsecondary educational institution's current  
21 licenses or contracts.

22 2. A student athlete shall not enter into a contract for  
23 compensation for the use of the student athlete's name, image,  
24 likeness rights, or athletic reputation if a postsecondary  
25 educational institution determines that a term of the contract  
26 conflicts with a term of a contract to which the institution is a  
27 party. A postsecondary educational institution may authorize an  
28 exception to this subsection in writing.

29 Sec. 5. NEW SECTION. **261K.5 Assistance by postsecondary**  
30 **educational institutions.**

31 A postsecondary educational institution or any officer,  
32 director, or employee of such institution, including but not  
33 limited to a coach, member of the coaching staff, or any  
34 individual associated with the institution's athletic department,  
35 may identify, create, facilitate, negotiate, support, enable, or

1 otherwise assist with opportunities for a student athlete to  
2 earn compensation from a third party, including an institutional  
3 marketing associate, for the use of the student athlete's name,  
4 image, likeness rights, or athletic reputation, provided that a  
5 postsecondary educational institution or individual shall not do  
6 any of the following:

7 1. Receive compensation from the student athlete or a  
8 third party for facilitating, enabling, or assisting with such  
9 opportunities.

10 2. Attempt to influence a student athlete's choice of  
11 professional representation related to such opportunities.

12 3. Attempt to reduce a student athlete's opportunities from  
13 competing third parties.

14 Sec. 6. NEW SECTION. **261K.6 Disclosure of contracts.**

15 Before any contract for compensation for the use of a student  
16 athlete's name, image, likeness rights, or athletic reputation,  
17 or for professional representation, is executed, and before any  
18 compensation is provided to the student athlete in advance of  
19 a contract, the student athlete shall disclose the contract to  
20 the student athlete's postsecondary educational institution in a  
21 manner prescribed by the institution.

22 Sec. 7. NEW SECTION. **261K.7 Limitation on compensation by**  
23 **institutions.**

24 A postsecondary educational institution or any officer,  
25 director, or employee of such institution shall not compensate  
26 a student athlete, prospective student athlete, or the family  
27 thereof for the use of the student athlete or prospective  
28 student athlete's name, image, likeness rights, or athletic  
29 reputation, unless otherwise permitted by institutional policy  
30 and a collegiate athletics association of which the institution  
31 is a member.

32 Sec. 8. NEW SECTION. **261K.8 Unique identifiers.**

33 1. A postsecondary educational institution or a third party  
34 shall develop and adopt a process for granting to a student  
35 athlete, or to a third party for use with a student athlete,

1 a license to use such institution's or third party's unique  
2 identifiers when earning or attempting to earn compensation from  
3 the use of the student athlete's name, image, likeness rights,  
4 or athletic reputation consistent with the institution's or third  
5 party's policies regarding licensing of its unique identifiers.

6 2. A postsecondary educational institution or a third party  
7 may charge a reasonable fee for a license to use a unique  
8 identifier under this section.

9 3. A postsecondary educational institution or a third party  
10 may impose requirements that a student athlete granted a license  
11 under this section refrain from using such unique identifier in a  
12 manner that the institution or third party in its sole discretion  
13 determines does any of the following:

14 a. Is reasonably considered to be inconsistent with the  
15 institution's or third party's values or mission.

16 b. Adversely affects the institution's or third party's  
17 image.

18 c. Negatively impacts or inappropriately reflects upon the  
19 reputation or religious, moral, or ethical standards of the  
20 institution or third party.

21 d. Violates the institution's or third party's code of  
22 conduct or similar requirements.

23 e. Conflicts with a provision of the institution's or third  
24 party's current licenses or contracts.

25 Sec. 9. NEW SECTION. **261K.9 Compensation outside of**  
26 **official, mandatory team activities.**

27 The terms of a contract of a postsecondary educational  
28 institution's athletic program shall not prevent a student  
29 athlete from receiving compensation for using the student  
30 athlete's name, image, likeness rights, or athletic reputation  
31 for a commercial purpose when the student athlete is not engaged  
32 in official mandatory team activities that are recorded in  
33 writing and can be made publicly available upon request.

34 Sec. 10. NEW SECTION. **261K.10 Confidentiality of**  
35 **contracts.**

1 1. The terms of a contract or proposed contract detailing  
2 compensation to a student athlete at a public postsecondary  
3 educational institution for the use of the student athlete's  
4 name, image, likeness rights, or athletic reputation shall be  
5 considered confidential records under section 22.7 and shall not  
6 be available for examination by the public pursuant to section  
7 22.2.

8 2. If a private postsecondary educational institution  
9 collects, retains, or maintains the terms of a student athlete's  
10 contract or proposed contract detailing compensation to the  
11 student athlete for the use of the student athlete's name,  
12 image, likeness rights, or athletic reputation, the postsecondary  
13 educational institution shall consider such contract terms to  
14 be student governed by the federal Family Education Rights and  
15 Privacy Act.

16 Sec. 11. NEW SECTION. **261K.11 Conditions on compensation.**

17 Compensation to a student athlete for earning or attempting  
18 to earn compensation from the use of such student athlete's  
19 name, image, likeness rights, or athletic reputation shall not  
20 be conditioned on such student athlete's athletic performance.  
21 Persons providing compensation to a student athlete for the  
22 use of the student athlete's name, image, likeness rights, or  
23 athletic reputation shall have the right to condition payment  
24 of that compensation on a student athlete's attendance at a  
25 particular postsecondary educational institution.

26 Sec. 12. NEW SECTION. **261K.12 Compensation by nonprofit**  
27 **organizations.**

28 A nonprofit entity that is exempt from federal income taxation  
29 pursuant to section 501(c)(3) of the Internal Revenue Code shall  
30 have the right to compensate a student athlete for the commercial  
31 use of the student athlete's name, image, likeness rights, or  
32 athletic reputation.

33 Sec. 13. NEW SECTION. **261K.13 Institutional marketing**  
34 **associates.**

35 1. Notwithstanding any rule of an athletic association,

1 athletic conference, or any other organization with authority  
2 over varsity intercollegiate athletics, institutional marketing  
3 associates shall have the right to compensate a student athlete  
4 for the commercial use of the student athlete's name, image,  
5 likeness rights, or athletic reputation. This includes the  
6 right to compensate a student athlete for the commercial use  
7 of the student athlete's name, image, or likeness rights in  
8 connection with the promotion of athletic events in which  
9 the student athlete will or may participate, the promotion of  
10 the postsecondary educational institution the student athlete  
11 attends, and the promotion of the postsecondary educational  
12 institution's intercollegiate athletics program. Additionally,  
13 an institutional marketing associate shall, in the event that  
14 a postsecondary educational institution or its intercollegiate  
15 athletics program affirmatively grants a request therefor, have  
16 the right to utilize content creation and marketing capabilities  
17 of a postsecondary educational institution or the postsecondary  
18 educational institution's intercollegiate athletics program in  
19 connection with services provided for the promotion of athletic  
20 events in which a student athlete will or may participate,  
21 the postsecondary educational institution, or the institution's  
22 intercollegiate athletics program.

23 2. Notwithstanding any rule of an athletic association,  
24 athletic conference, or any other organization with authority  
25 over varsity intercollegiate athletics, a student athlete shall  
26 have the right to receive compensation from an institutional  
27 marketing associate for the commercial use of the student  
28 athlete's name, image, likeness rights, or athletic reputation,  
29 in connection with the promotion of athletic events in which  
30 the student athlete will or may participate, the promotion of  
31 the postsecondary educational institution the student athlete  
32 attends, and the promotion of the postsecondary educational  
33 institution's intercollegiate athletics program, or other  
34 matters.

35 Sec. 14. NEW SECTION. **261K.14 Educational workshops.**

1 A postsecondary educational institution that enters into  
2 commercial agreements that directly or indirectly require the use  
3 of a student athlete's name, image, likeness rights, or athletic  
4 reputation shall offer at least two educational workshops  
5 per calendar year that may include topics such as financial  
6 literacy, life skills, time management, and entrepreneurship.  
7 The educational workshops shall not be offered in the same  
8 month and each workshop offered in a calendar year shall be  
9 unique and not a repetition of the other workshop offered that  
10 year. A postsecondary educational institution shall notify  
11 all student athletes of the educational workshops through the  
12 distribution of informational materials via electronic mail or  
13 other communication methods the institution regularly uses to  
14 communicate with student athletes. The educational workshops  
15 shall not include any marketing, advertising, referral, or  
16 solicitation by providers of financial products or services.

17 Sec. 15. NEW SECTION. **261K.15 Athletic associations,**  
18 **conferences, or organizations — prohibited activities.**

19 An athletic association, athletic conference, or any  
20 other organization with authority over varsity intercollegiate  
21 athletics shall not do any of the following or authorize its  
22 member institutions to do so:

23 1. Prevent a student athlete from receiving compensation for  
24 the commercial use of the student athlete's name, image, likeness  
25 rights, or athletic reputation under this chapter or penalize a  
26 student athlete for doing so.

27 2. Prevent a postsecondary educational institution from  
28 participating in varsity intercollegiate athletics or otherwise  
29 penalize a postsecondary educational institution as a result  
30 of a student athlete's receipt of compensation for the student  
31 athlete's name, image, likeness rights, or athletic reputation  
32 under this chapter.

33 3. Prevent a postsecondary educational institution from  
34 establishing agreements with a third-party entity to act on  
35 its behalf to identify, facilitate, enable, or support student

1 athlete name, image, and likeness activities.

2 4. Accept a complaint, open an investigation, or take  
3 any other adverse action against a postsecondary educational  
4 institution or any of its employees for engaging in any activity  
5 permitted under this chapter.

6 5. Penalize a postsecondary educational institution because  
7 an institutional marketing associate compensates a student  
8 athlete for use of the student athlete's name, image, likeness  
9 rights, or athletic reputation, as permitted under this  
10 chapter, or if a third party violates the collegiate athletic  
11 association's rules or regulations with regard to student athlete  
12 name, image, or likeness activities.

13 Sec. 16. NEW SECTION. **261K.16 Civil action — remedies.**

14 1. A student athlete may bring a civil action against third  
15 parties that violate this chapter or that interfere with the  
16 student athlete's earning or attempting to earn compensation from  
17 the use of such student athlete's name, image, likeness rights,  
18 or athletic reputation for injunctive relief and actual damages.  
19 The court shall award court costs and reasonable attorney fees to  
20 a prevailing student athlete.

21 2. A student athlete bringing an action under this chapter  
22 shall not be deprived of any protections provided under law with  
23 respect to a controversy that arises and shall have the right to  
24 adjudicate claims that arise under this chapter.

25 Sec. 17. NEW SECTION. **261K.17 Applicability to high school  
26 students.**

27 1. A high school student who competes on an interscholastic  
28 athletic team in this state that is sponsored by a public  
29 school or by a private school whose students compete against a  
30 public school's students may earn or attempt to earn compensation  
31 from the use of the student's name, image, likeness rights, or  
32 athletic reputation as though the student were a student athlete  
33 as provided in this chapter, subject to the following:

34 a. A high school student shall have the right to discuss  
35 earning or attempting to earn such compensation before signing

1 an athletic letter of intent or other written agreement only  
2 when having discussions about potential enrollment with a  
3 postsecondary educational institution.

4 b. A high school student shall have the right to earn or  
5 attempt to earn such compensation only after signing an athletic  
6 letter of intent or other written agreement to enroll in a  
7 postsecondary educational institution.

8 2. The discussion of, or earning or attempting to earn,  
9 compensation from the use of a high school student's name,  
10 image, likeness rights, or athletic reputation as provided in  
11 this chapter shall not be construed to be a violation of any  
12 rule and regulation a high school student and high schools  
13 are required to follow to maintain and protect a high school  
14 student's eligibility to participate in high school athletics in  
15 this state.

16 Sec. 18. NEW SECTION. **261K.18 Limitation of liability and**  
17 **legal settlements.**

18 1. A postsecondary educational institution's employees,  
19 including athletics coaching staff, shall not be liable for  
20 any damages to a student athlete's ability to earn compensation  
21 for the use of the student athlete's name, image, or likeness  
22 resulting from decisions or actions routinely taken in the course  
23 of intercollegiate athletics.

24 2. A legal settlement shall not permit noncompliance with  
25 this chapter. Any such provision is void and unenforceable.

26 Sec. 19. NEW SECTION. **261K.19 Construction.**

27 1. This chapter shall not be construed to qualify a  
28 student athlete as an employee of a postsecondary educational  
29 institution.

30 2. This chapter does not affect the rights of student  
31 athletes under Tit. IX of the Education Amendments of 1972, 20  
32 U.S.C. §1681 et seq.

33 Sec. 20. **APPLICABILITY.** This Act applies to agreements or  
34 contracts entered into, modified, or renewed on or after the  
35 effective date of this Act. Such agreements or contracts

1 include but are not limited to the national letter of intent,  
2 an athlete's financial aid agreement, commercial contracts in  
3 the athlete group licensing market, and athletic conference or  
4 athletic association rules or bylaws.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with  
7 the explanation's substance by the members of the general assembly.

8 This bill relates to compensation and name, image, and  
9 likeness rights of student athletes at postsecondary educational  
10 institutions. The bill defines a "postsecondary educational  
11 institution" as an institution of higher education governed by  
12 the state board of regents, a community college, or a private  
13 postsecondary educational institution in this state.

14 The bill prohibits a postsecondary educational institution  
15 from enforcing any rule, requirement, standard, or other  
16 limitation of an athletic association or athletic conference  
17 that prevents a student athlete of that institution from fully  
18 participating in intercollegiate athletics without penalty or  
19 from earning compensation as a result of the use of the  
20 student athlete's name, image, likeness rights, or athletic  
21 reputation. The bill provides that a student athlete's financial  
22 aid eligibility shall not be affected by the student athlete  
23 earning compensation from the use of the student athlete's name,  
24 image, or likeness rights, or athletic reputation.

25 The bill prohibits a postsecondary educational institution  
26 from interfering with or preventing a student athlete from  
27 fully participating in intercollegiate athletics or obtaining  
28 professional representation without penalty in relation to  
29 contracts or legal matters relating to earning compensation as a  
30 result of the use of the student athlete's name, image, likeness  
31 rights, or athletic reputation. The bill provides requirements  
32 for such professional representation.

33 The bill provides that financial aid from a postsecondary  
34 educational institution in which a student athlete is enrolled  
35 shall not be considered compensation for use of the athlete's

1 name, image, and likeness rights, or athletic reputation.

2 The bill provides limitations on a student athlete entering  
3 into an apparel, equipment, or beverage contract providing  
4 compensation to the athlete for use of the student athlete's  
5 name, image, likeness rights, or athletic reputation.

6 The bill authorizes a postsecondary educational institution  
7 or any officer, director, or employee of such institution to  
8 identify, create, facilitate, negotiate, support, enable, or  
9 otherwise assist with opportunities for a student athlete to earn  
10 compensation from a third party, as defined in the bill, for the  
11 use of the student athlete's name, image, likeness rights, or  
12 athletic reputation with specified limitations.

13 The bill requires a student athlete to disclose a  
14 contract for compensation for the use of a student athlete's  
15 name, image, likeness rights, or athletic reputation, or  
16 for professional representation, to the student athlete's  
17 postsecondary educational institution in a manner prescribed by  
18 the institution before the contract is executed, and before any  
19 compensation is provided to the student athlete in advance of the  
20 contract.

21 The bill prohibits a postsecondary educational institution  
22 or any officer, director, or employee of such institution from  
23 compensating a student athlete, prospective student athlete,  
24 or the family thereof for the use of the student athlete or  
25 prospective student athlete's name, image, likeness rights, or  
26 athletic reputation, unless otherwise permitted by institutional  
27 policy and a collegiate athletics association of which the  
28 institution is a member.

29 The bill requires a postsecondary educational institution or  
30 a third party to develop and adopt a process for granting to  
31 a student athlete, or to a third party for use with a student  
32 athlete, a license to use such institution's or third party's  
33 unique identifiers, such as a seal, logo, or emblem, when earning  
34 or attempting to earn compensation from the use of the student  
35 athlete's name, image, likeness rights, or athletic reputation

1 consistent with the institution's or third party's policies  
2 regarding licensing of its unique identifiers. The bill provides  
3 additional requirements for the use of unique identifiers.

4 The bill provides that the terms of a contract of a  
5 postsecondary educational institution's athletic program shall  
6 not prevent a student athlete from receiving compensation for  
7 using the student athlete's name, image, likeness rights, or  
8 athletic reputation for a commercial purpose when the student  
9 athlete is not engaged in official mandatory team activities that  
10 are recorded in writing and can be made publicly available upon  
11 request.

12 The bill provides that the terms of a contract detailing  
13 compensation to a student athlete at a public postsecondary  
14 educational institution for the use of the student athlete's  
15 name, image, likeness rights, or athletic reputation shall  
16 be considered confidential records. The bill also addresses  
17 privacy of such contracts at private postsecondary educational  
18 institutions.

19 The bill provides limitations on the conditions that can be  
20 placed on compensation to a student athlete for the use of  
21 the student athlete's name, image, likeness rights, or athletic  
22 reputation and specifies that a nonprofit entity can provide such  
23 compensation.

24 The bill establishes rights of an institutional marketing  
25 associate, as defined in the bill, and rights of a student  
26 receiving compensation from an institutional marketing associate.

27 The bill requires a postsecondary educational institution to  
28 offer educational workshops with specified content to student  
29 athletes in certain circumstances.

30 The bill prohibits an athletic association, athletic  
31 conference, or any other organization with authority over varsity  
32 intercollegiate athletics from engaging in specified activities  
33 relating to a student athlete's name, image, likeness rights, or  
34 athletic reputation.

35 The bill authorizes a student athlete to bring a civil action

1 against third parties that violate the provisions of the bill or  
2 that interfere with the student athlete's earning or attempting  
3 to earn compensation from the use of such student athlete's name,  
4 image, likeness rights, or athletic reputation for injunctive  
5 relief and actual damages.

6 The bill authorizes and provides limitations on compensation  
7 of a high school student who competes on an interscholastic  
8 athletic team, which must involve an athletic letter of intent or  
9 other written agreement to enroll in a postsecondary educational  
10 institution.

11 The bill provides that a postsecondary educational  
12 institution's employees shall not be liable for any damages to  
13 a student athlete's ability to earn compensation for the use  
14 of the student athlete's name, image, or likeness resulting  
15 from decisions or actions routinely taken in the course of  
16 intercollegiate athletics.

17 A provision of a legal settlement permitting noncompliance  
18 with the bill is void and unenforceable.

19 The bill shall not be construed to qualify a student athlete  
20 as an employee of a postsecondary educational institution or  
21 to affect the rights of student athletes under Tit. IX of the  
22 Education Amendments of 1972.

23 The bill applies to agreements or contracts entered into,  
24 modified, or renewed on or after the effective date of the bill.  
25 Such agreements or contracts include but are not limited to the  
26 national letter of intent, an athlete's financial aid agreement,  
27 commercial contracts in the athlete group licensing market, and  
28 athletic conference or athletic association rules or bylaws.