

AMENDMENTS TO LB962

Introduced by Hansen, M., 26.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 9 of this act shall be known and may be
4 cited as the Nebraska Fair Pay to Play Act.

5 Sec. 2. For purposes of the Nebraska Fair Pay to Play Act:

6 (1) Athletic grant-in-aid means the money given to a student-athlete
7 by a postsecondary institution for tuition, fees, room, board, and
8 textbooks as consideration for the student-athlete's participation in an
9 intercollegiate sport for such postsecondary institution and does not
10 include compensation for the use of the student-athlete's name, image, or
11 likeness rights or athletic reputation;

12 (2) Collegiate athletic association means any athletic association,
13 conference, or other group or organization with authority over
14 intercollegiate sports;

15 (3) Compensation for the use of a student-athlete's name, image, or
16 likeness rights or athletic reputation includes, but is not limited to,
17 consideration received pursuant to an endorsement contract as defined in
18 section 48-2602;

19 (4) Intercollegiate sport has the same meaning as in section
20 48-2602;

21 (5) Postsecondary institution has the same meaning as in section
22 85-2403;

23 (6) Professional representation includes, but is not limited to,
24 representation provided by an athlete agent holding a certificate of
25 registration under the Nebraska Uniform Athlete Agents Act, a financial
26 advisor registered under the Securities Act of Nebraska, or an attorney
27 admitted to the bar by order of the Supreme Court of this state;

1 (7) Sponsor means an individual or organization that pays money or
2 provides goods or services in exchange for advertising rights;

3 (8) Student-athlete has the same meaning as in section 48-2602; and

4 (9) Team contract means a contract between a postsecondary
5 institution or a postsecondary institution's athletic department and a
6 sponsor.

7 Sec. 3. (1) No postsecondary institution shall uphold any rule,
8 requirement, standard, or limitation that prevents a student-athlete from
9 fully participating in an intercollegiate sport for such postsecondary
10 institution because such student-athlete earns compensation for the use
11 of such student-athlete's name, image, or likeness rights or athletic
12 reputation.

13 (2) No collegiate athletic association shall penalize a student-
14 athlete or prevent a student-athlete from fully participating in an
15 intercollegiate sport because such student-athlete earns compensation for
16 the use of such student-athlete's name, image, or likeness rights or
17 athletic reputation.

18 (3) No collegiate athletic association shall penalize a
19 postsecondary institution or prevent a postsecondary institution from
20 fully participating in an intercollegiate sport because a student-athlete
21 participating in an intercollegiate sport for such postsecondary
22 institution earns compensation for the use of such student-athlete's
23 name, image, or likeness rights or athletic reputation.

24 (4) No postsecondary institution shall allow compensation earned by
25 a student-athlete for the use of such student-athlete's name, image, or
26 likeness rights or athletic reputation to affect the duration, amount, or
27 eligibility for or renewal of any athletic grant-in-aid or other
28 institutional scholarship, except that compensation earned by a student-
29 athlete for the use of such student-athlete's name, image, or likeness
30 rights or athletic reputation may be used for the calculation of income
31 for determining eligibility for a need-based scholarship.

1 Sec. 4. Any student-athlete who enters into a contract that
2 provides compensation for the use of such student-athlete's name, image,
3 or likeness rights or athletic reputation shall disclose such contract to
4 an official of the postsecondary institution for which such student-
5 athlete participates in an intercollegiate sport. The official to which
6 such contract shall be disclosed shall be designated by each
7 postsecondary institution, and the designation shall be communicated in
8 writing to each student-athlete participating in an intercollegiate sport
9 for such postsecondary institution. Unless otherwise required by law,
10 each postsecondary institution shall be prohibited from disclosing any
11 terms of such contract that the student-athlete or the student-athlete's
12 professional representation deems to be a trade secret or otherwise
13 nondisclosable.

14 Sec. 5. (1) No student-athlete shall enter into a contract with a
15 sponsor that provides compensation to the student-athlete for use of the
16 student-athlete's name, image, and likeness rights or athletic reputation
17 if (a) such contract requires such student-athlete to display such
18 sponsor's apparel or to otherwise advertise for the sponsor during
19 official team activities and (b) compliance with such contract
20 requirement would conflict with a team contract. Any postsecondary
21 institution asserting such conflict shall disclose to the student-athlete
22 and the student-athlete's professional representation, if applicable, the
23 full team contract that is asserted to be in conflict. The student-
24 athlete and the student-athlete's professional representation, if
25 applicable, shall be prohibited from disclosing any terms of a team
26 contract that the postsecondary institution deems to be a trade secret or
27 otherwise nondisclosable.

28 (2) No team contract shall prevent a student-athlete from receiving
29 compensation for the use of such student-athlete's name, image, and
30 likeness rights or athletic reputation when the student-athlete is not
31 engaged in official team activities.

1 Sec. 6. (1) No postsecondary institution or collegiate athletic
2 association shall penalize a student-athlete or prevent a student-athlete
3 from fully participating in an intercollegiate sport because such
4 student-athlete obtains professional representation in relation to a
5 contract or legal matter.

6 (2) No collegiate athletic association shall penalize a
7 postsecondary institution or prevent a postsecondary institution from
8 fully participating in an intercollegiate sport because a student-athlete
9 participating in an intercollegiate sport for such postsecondary
10 institution obtains professional representation in relation to a contract
11 or legal matter.

12 Sec. 7. (1) The Nebraska Fair Pay to Play Act shall not be applied
13 in a manner that violates any contract in effect prior to the date
14 determined by a postsecondary institution pursuant to section 9 of this
15 act with regard to such postsecondary institution or any student-athlete
16 who participates in an intercollegiate sport for such postsecondary
17 institution for as long as such contract remains in effect without
18 modification.

19 (2) On and after the date determined by a postsecondary institution
20 pursuant to section 9 of this act, such postsecondary institution shall
21 not enter into, modify, or renew any contract in a manner that conflicts
22 with the Nebraska Fair Pay to Play Act.

23 Sec. 8. (1) A student-athlete or a postsecondary institution
24 aggrieved by a violation of the Nebraska Fair Pay to Play Act may bring a
25 civil action against the postsecondary institution or collegiate athletic
26 association committing such violation.

27 (2) A plaintiff who prevails in an action under the Nebraska Fair
28 Pay to Play Act shall be entitled to:

29 (a) Actual damages;

30 (b) Such preliminary and other equitable or declaratory relief as
31 may be appropriate; and

1 (c) Reasonable attorney's fees and other litigation costs reasonably
2 incurred.

3 (3) A public postsecondary institution may be sued upon claims
4 arising under the Nebraska Fair Pay to Play Act only to the extent
5 allowed under the State Tort Claims Act, the State Contract Claims Act,
6 or the State Miscellaneous Claims Act.

7 Sec. 9. Each postsecondary institution shall determine a date on or
8 before July 1, 2023, upon which the Nebraska Fair Pay to Play Act shall
9 begin to apply to such postsecondary institution and the student-athletes
10 who participate in an intercollegiate sport for such postsecondary
11 institution and to any collegiate athletic association or professional
12 representation in interactions with such postsecondary institution or
13 student-athlete.

14 Sec. 10. Section 48-2610, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 48-2610 (1) An agency contract must be in a record, signed or
17 otherwise authenticated by the parties.

18 (2) An agency contract must state or contain:

19 (a) The amount and method of calculating the consideration to be
20 paid by the student-athlete for services to be provided by the athlete
21 agent under the contract and any other consideration the athlete agent
22 has received or will receive from any other source for entering into the
23 contract or for providing the services;

24 (b) The name of any person not listed in the application for
25 registration or renewal of registration who will be compensated because
26 the student-athlete signed the agency contract;

27 (c) A description of any expenses that the student-athlete agrees to
28 reimburse;

29 (d) A description of the services to be provided to the student-
30 athlete;

31 (e) The duration of the contract; and

1 (f) The date of execution.

2 (3) An agency contract must contain, in close proximity to the
3 signature of the student-athlete, a conspicuous notice in boldface type
4 in capital letters stating:

5 WARNING TO STUDENT-ATHLETE

6 ~~IF YOU SIGN THIS CONTRACT:~~

7 (1) IF YOU ENTER INTO NEGOTIATIONS FOR, OR SIGN, A PROFESSIONAL-
8 SPORTS-SERVICES CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A
9 STUDENT-ATHLETE IN YOUR SPORT;

10 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING
11 INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR
12 ATHLETIC DIRECTOR; AND

13 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.
14 ~~CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.~~

15 (4) An agency contract that does not conform to this section is
16 voidable by the student-athlete. If a student-athlete voids an agency
17 contract, the student-athlete is not required to pay any consideration
18 under the contract or to return any consideration received from the
19 athlete agent to induce the student-athlete to enter into the contract.

20 (5) The athlete agent shall give a record of the signed or otherwise
21 authenticated agency contract to the student-athlete at the time of
22 execution.

23 Sec. 11. Section 48-2614, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 48-2614 (1) An athlete agent, with the intent to induce a student-
26 athlete to enter into an agency contract, may not:

27 (a) Give any materially false or misleading information or make a
28 materially false promise or representation;

29 (b) Furnish anything of value to a student-athlete before the
30 student-athlete enters into the agency contract; or

31 (c) Furnish anything of value to any individual other than the

1 student-athlete or another registered athlete agent.

2 (2) An athlete agent may not intentionally:

3 (a) Initiate contact with a student-athlete unless registered under
4 the Nebraska Uniform Athlete Agents Act;

5 (b) Refuse or fail to retain or permit inspection of the records
6 required to be retained by section 48-2613;

7 (c) Fail to register when required by section 48-2604;

8 (d) Provide materially false or misleading information in an
9 application for registration or renewal of registration;

10 (e) Predate or postdate an agency contract; or

11 (f) Fail to notify a student-athlete before the student-athlete
12 signs or otherwise authenticates an agency contract for a particular
13 sport that entering into negotiations for, or signing, a professional-
14 sports-services contract ~~the signing or authentication~~ may make the
15 student-athlete ineligible to participate as a student-athlete in that
16 sport.

17 Sec. 12. If any section in this act or any part of any section is
18 declared invalid or unconstitutional, the declaration shall not affect
19 the validity or constitutionality of the remaining portions.

20 Sec. 13. Original sections 48-2610 and 48-2614, Reissue Revised
21 Statutes of Nebraska, are repealed.