

**HOUSE . . . . . No. 1340****The Commonwealth of Massachusetts**

PRESENTED BY:

***Steven S. Howitt***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

**An Act relative to intercollegiate compensation and rights.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/20/2021</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/25/2021</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/26/2021</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>1/26/2021</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>1/26/2021</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/26/2021</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>2/9/2021</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>2/16/2021</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>	<i>2/24/2021</i>
<i>Lenny Mirra</i>	<i>2nd Essex</i>	<i>2/24/2021</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>	<i>2/24/2021</i>
<i>Christopher Hendricks</i>	<i>11th Bristol</i>	<i>2/25/2021</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/25/2021</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>2/26/2021</i>

# HOUSE . . . . . No. 1340

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By Mr. Howitt of Seekonk, a petition (accompanied by bill, House, No. 1340) of Steven S. Howitt and others relative to intercollegiate athletic compensation and rights. Higher Education.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-Second General Court  
(2021-2022)  
\_\_\_\_\_

An Act relative to intercollegiate compensation and rights.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1 Chapter 9 of the Massachusetts General Laws, as so appearing, is hereby  
2 amended by adding the following new section:-

3           Section 32 (a) For the purposes of this section the following terms shall, unless the  
4 context clearly appears otherwise, have the following meanings: -

5           “College athlete” means an individual that participates or participated in intercollegiate  
6 sport for a postsecondary educational institution located in the state. An individual’s  
7 participation in a college intramural sport or in a professional sport outside of intercollegiate  
8 athletics does not apply.

9           “Athletic association” means an entity with athletics governance authority and is  
10 comprised of postsecondary educational institutions and athletic conferences.

11           “Athletic conference” means an entity and/or a collaboration of entities such as the  
12 autonomy conferences that has/have athletics governance authority, is a member of an athletic

association, and has members comprised of and/or competes against postsecondary educational institutions.

“Third party” means any individual or entity other than a postsecondary educational institution, athletic conference, or athletic association.

SECTION 2. Chapter 15A of the General Laws, as appearing in the 2021 Official Edition, is hereby amended by adding the following new section:-

Section 45(a): A postsecondary educational institution shall not uphold any rule, requirement, standard, or other limitation that prevents a college athlete of that institution from fully participating in intercollegiate athletics without penalty for receiving food, shelter, medical expenses, or insurance from a 3rd party; or for earning compensation from a 3rd party as a result of the use of the college athlete’s name, image, or likeness rights, or athletic reputation. Earning compensation from the use of a college athlete’s name, image, or likeness rights, or athletic reputation shall not affect a college athlete’s grant-in-aid or stipend eligibility, amount, duration, or renewal.

(b) For purposes of this section, a grant-in aid and/or a stipend from a postsecondary educational institution in which a college athlete is enrolled is not compensation for use of a college athlete’s name, image, and likeness rights, or athletic reputation; and a grant-in-aid or stipend shall not be revoked or reduced as a result of a college athlete earning compensation pursuant to this section.

(c) A postsecondary educational institution shall not interfere with or prevent a college athlete from fully participating in intercollegiate athletics for obtaining representation unaffiliated with a postsecondary educational institution or its partners in relation to contracts or

35 legal matters, including, but not limited to athlete agents, financial advisors, or legal  
36 representation provided by attorneys.

37 (i) Professional representation obtained by a student athlete must be from persons  
38 licensed by the Commonwealth.

39 (ii) An athlete agent representing a student athlete for purposes of earning  
40 compensation as a result of a third party's use of the student's name, image or likeness must be  
41 licensed under Chapter 221, Section 37 of the Massachusetts General Laws. An attorney  
42 representing a student athlete for purposes of earning compensation as a result of a third party's  
43 use of the student's name, image or likeness must be licensed to practice in the Commonwealth  
44 of Massachusetts and a member in good standing with the Massachusetts Bar.

45 i. An athlete agent representing a student athlete shall comply with federal Sports  
46 Agent Responsibility and Trust Act in Chapter 104 of Title 15 U.S.C. in his or her relationship  
47 with the student.

48 (d) A third party shall not offer a college athlete a contract to provide compensation to the  
49 college athlete for use of the college athlete's name, image, or likeness rights, or athletic  
50 reputation which requires a college athlete to advertise for the sponsor in person during official,  
51 mandatory team activities without approval from the college athlete's postsecondary educational  
52 institution.

53 (ii) Postsecondary institutions of higher education cannot prohibit or discourage  
54 college athletes from wearing footwear of their choice during official, mandatory team activities  
55 so long as the footwear does not have reflective fabric, lights, or pose a health risk to a college  
56 athlete.

57 (e) A postsecondary educational institution shall not prevent a college athlete from  
58 receiving 3rd party compensation for using the college athlete's name, image, or likeness rights,  
59 or athletic reputation when the college athlete is not engaged in official team activities. Such  
60 restrictions may not exceed 20 hours per week during the season and 8 hours per week during the  
61 off-season.

62 (f) A postsecondary educational institution shall not arrange compensation for college  
63 athletes related to use of their name, image or likeness rights or athletic reputation or use such  
64 deals as inducements to recruit prospective college athletes.

65 (g) Postsecondary educational institutions that enter into commercial agreements that  
66 directly or indirectly require the use of a college athlete's name, image and likeness must  
67 conduct a financial development program of up to 15 hours in duration once per year.

68 (i) The financial development program cannot include any marketing, advertising,  
69 referral or solicitation by providers of financial products or services.

70 (h) This legislation shall apply only to contracts entered into, modified or renewed on  
71 or after the enactment of this section.

72 (i) College athletes have the right to pursue private action against parties who violate  
73 this act through superior court, through a civil action for injunctive relief or money damages, or  
74 both. If the athlete prevails in private action, they have the right to seek recovery of attorney's  
75 fees.

(j) College athletes and state or local prosecutors seeking to prosecute violators shall not be deprived of any protections provided under Massachusetts law with respect to a controversy that arises in Massachusetts; shall have the right to adjudication in Massachusetts.

(j) The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(k) Legal settlements cannot forbid compliance with this act.

(l) This chapter shall apply to any applicable agreement or contract newly entered into, renewed, modified, or extended on or after January 1, 2022. Such agreements or contracts include but are not limited to the National Letter of Intent, a college athlete's financial aid agreement, commercial contracts, and athletic conference or athletic association rules or bylaws.

SECTION 3 The Commonwealth of Massachusetts requests that any federal legislation regarding this act respect and permit the Commonwealth's college athletes' rights, protections, and other provisions included in this legislation.