

# HOUSE . . . . . No. 4696

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, April 19, 2022.

The committee on Higher Education to whom was referred the petition (accompanied by bill, House, No. 1335) of Carlos González and others for legislation to establish the Massachusetts collegiate athletic participation compensation act and the petition (accompanied by bill, House, No. 1340) of Steven S. Howitt and others relative to intercollegiate athletic compensation and rights. reports recommending that the accompanying bill (House, No. 4696) ought to pass.

For the committee,

DAVID M. ROGERS.

**HOUSE . . . . . No. 4696**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
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An act relative to college athlete compensation.

*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 15A of the General Laws, as appearing in the 2018 Official  
2 Edition, is hereby amended by adding the following section:-

3           Section 45 (a) A public or private institution of higher education, hereinafter referred to  
4 as an institution, shall not uphold any rule, requirement, standard or other limitation, except as  
5 otherwise provided for in this section, that prevents a student of that institution participating in  
6 intercollegiate athletics from earning compensation as a result of the use of the student's name,  
7 image or likeness. Earning compensation pursuant to this section including from the use of a  
8 student's name, image or likeness shall not affect the student's scholarship eligibility. For the  
9 purposes of this section, a public or private institution of higher education shall include a  
10 community college.

11           (b) An athletic association, conference or other group or organization with authority over  
12 intercollegiate athletics, including, but not limited to, the National Collegiate Athletic

13 Association, shall not prevent a student of an institution participating in intercollegiate athletics  
14 from earning compensation as a result of the use of the student's name, image or likeness.

15 (c) An athletic association, conference, or other group or organization with authority over  
16 intercollegiate athletics, including, but not limited to, the National Collegiate Athletic  
17 Association, shall not prevent a postsecondary educational institution from participating in  
18 intercollegiate athletics as a result of a student athlete earning compensation from third parties  
19 for the use of the student's name, image, or likeness.

20 (d) An institution, athletic association, conference or other group or organization with  
21 authority over intercollegiate athletics shall not prevent a student-athlete participating in  
22 intercollegiate athletics from obtaining professional representation in relation to contracts or  
23 legal matters, including, but not limited to, representation provided by athlete agents or legal  
24 representation provided by attorneys.

25 (e) Professional representation obtained by student-athletes shall be from persons  
26 complying with or registered in the commonwealth pursuant to section 2 of this act.

27 (f) A scholarship from the institution in which a student is enrolled that provides the  
28 student with the cost of attendance at that institution is not compensation for purposes of this  
29 section. A scholarship shall not be revoked as a result of earning compensation or obtaining  
30 athlete agent or legal representation pursuant to this section.

31 (g) A student-athlete shall not enter into a contract or agreement providing compensation  
32 to the athlete for use of the athlete's name, image or likeness if a provision of the contract or  
33 agreement is in conflict with a provision of the athlete's team contract. A student-athlete who  
34 enters into a contract or agreement providing compensation to the athlete for use of the athlete's

35 name, image or likeness shall disclose the contract or agreement to an official of the institution,  
36 to be designated by the institution.

37 (h) A new team contract or a renewal or modification of a team contract of an institution's  
38 athletic program shall not prevent a student-athlete from using the athlete's name, image or  
39 likeness for a commercial purpose when the athlete is not engaged in official team activities.

40 (i) Notwithstanding any other provision set forth in this section, a student-athlete may not  
41 receive compensation for use of the student-athlete's name, image, likeness: (i) to the extent that  
42 compensation is contingent on enrollment at a particular institution; (ii) for athletic participation,  
43 or that is based on athletic achievements or performance milestones; (iii) for services or work  
44 that the student-athlete has not actually performed; (iv) from an institution, athletic association,  
45 conference or other group or organization with authority over intercollegiate athletics to the  
46 student-athlete for the use of the name, image, likeness; and (v) for any other activity that is  
47 deemed an impermissible inducement from the institution to the student-athlete under the rules  
48 of any athletic association, conference, other group or organization with authority over  
49 intercollegiate athletics.

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

52 Section 32. (a) For the purposes of this section the following terms shall, unless the  
53 context clearly appears otherwise, have the following meanings: –

54 “Athlete agent”, a person who enters into a contract or agreement with a student-athlete  
55 or, directly or indirectly, recruits or solicits a student-athlete to enter into a contract or  
56 agreement. Such term includes an individual who represents to the public that the individual is an

57 athlete agent. This term shall not include a spouse, parent, sibling, grandparent or guardian of the  
58 student-athlete, or an individual acting solely on behalf of a professional sports team or  
59 professional sports organization.

60 “Registration”, registration as an athlete agent pursuant to this section.

61 “Student-athlete”, an individual who engages in, is eligible to engage in or may be  
62 eligible in the future to engage in any intercollegiate or interscholastic sport at a public or private  
63 institution of higher education.

64 (b) A person shall not act as an athlete agent in commonwealth without holding a  
65 certificate of registration issued pursuant to this section.

66 (c) Before being issued a certificate of registration, a person may act as an athlete agent  
67 in this state for all purposes except signing a contract or agreement, if: (i) a student-athlete or  
68 another person acting on behalf of the student-athlete initiates communication with such  
69 individual; and (ii) within 7 days after an initial act as an athlete agent, such individual submits  
70 an application for registration as an athlete agent under this section.

71 (d) A contract or agreement between a student-athlete and an athlete agent resulting from  
72 conduct in violation of this section shall be void. In the event a student-athlete voids such  
73 contract or agreement, the student-athlete shall not be required to pay any consideration under  
74 such contract or agreement or to return any consideration received from the athlete agent to  
75 induce the student-athlete to enter into the contract or agreement, and the athlete agent shall be  
76 required to return any consideration received pursuant to such voided contract or agreement. Any  
77 contract or agreement under this section shall be void and unenforceable unless it is in writing  
78 and executed by the athlete agent and the student-athlete.

79 (e) An applicant for registration shall submit an application therefor to the state secretary  
80 in such form as shall be prescribed by the state secretary. An application filed pursuant to this  
81 section shall be a public record. The application shall be in the name of an individual and signed  
82 or otherwise authenticated by the applicant under penalty of perjury, and shall include, but is not  
83 limited to, the following:

84 (i) the name of the applicant and the address of the applicant's principal place of  
85 business;

86 (ii) the name of the applicant's business or employer, if applicable;

87 (iii) any business or occupation engaged in by the applicant for the 5 years next preceding  
88 the date of submission of the application;

89 (iv) a description of the applicant's: (1) formal training as an athlete agent; (2) practical  
90 experience as an athlete agent; and (3) educational background relating to the applicant's  
91 activities as an athlete agent;

92 (v) the names and addresses of 3 individuals not related to the applicant who are willing  
93 to serve as references;

94 (vi) the name, sport and last known team for each individual for whom the applicant  
95 acted as an athlete agent during the 5 years next preceding the date of submission of the  
96 application;

97 (vii) the names and addresses of all persons who are: (1) with respect to the athlete  
98 agent's business if it is not a corporation, the partners, members, officers, managers, associates  
99 or profit-sharers having an interest of 5 percent or greater of the business; and (2) with respect to

100 a corporation employing the athlete agent, the officers, directors and any shareholder of the  
101 corporation having an interest of 5 per cent or greater;

102 (viii) whether the applicant or any person named pursuant to clause (vii) has been  
103 convicted of a crime that, if committed in this state, would be a crime involving moral turpitude  
104 or a felony, and identify the crime;

105 (ix) whether there has been any administrative or judicial determination that the applicant  
106 or any person named pursuant to clause (vii) has made a false, misleading, deceptive or  
107 fraudulent representation;

108 (x) any instance in which the conduct of the applicant or any person named pursuant to  
109 clause (vii) resulted in the imposition of a sanction, suspension or declaration of ineligibility to  
110 participate in an interscholastic or intercollegiate athletic event on a student-athlete or  
111 educational institution;

112 (xi) any sanction, suspension or disciplinary action taken against the applicant or any  
113 person named pursuant to clause (vii) of this subsection by a governmental or quasi-  
114 governmental licensing entity or adjudicatory process arising out of occupational or professional  
115 conduct; and

116 (xii) whether there has been any denial of an application for, suspension or revocation of,  
117 or refusal to renew the registration or licensure of the applicant or any person named pursuant to  
118 clause (vii) as an athlete agent in any state.

119 (f) An individual who has submitted an application for, and holds a certificate of,  
120 registration or licensure as an athlete agent in another state, may submit a copy of the application

121 and certificate in lieu of submitting an application, or an application of renewal, in the form  
122 prescribed by the state secretary. The state secretary shall accept the application and the  
123 certificate from the other state as an application for registration in this state if the application to  
124 the other state:

125 (i) was submitted in the other state within 6 months next preceding the submission of the  
126 application in this state and the applicant certifies that the information contained in the  
127 application is current;

128 (ii) contains information substantially similar to or more comprehensive than that  
129 required in an application submitted in this state; and

130 (iii) was signed by the applicant under penalty of perjury.

131 (g) Except as otherwise provided in this section, the state secretary shall issue a  
132 certificate of registration to an individual who complies the requirements of this section.

133 (h) The state secretary may refuse to issue a certificate of registration if the state secretary  
134 determines that the applicant has engaged in conduct that has an adverse effect on the applicant's  
135 fitness to act as an athlete agent. In making the determination, the state secretary may consider  
136 whether the applicant has:

137 (i) been convicted of a crime that, if committed in this state, would be a crime  
138 involving moral turpitude or a felony;

139 (ii) made a materially false, misleading, deceptive or fraudulent representation in  
140 the application or as an athlete agent;



141 (iii) engaged in conduct that would disqualify the applicant from serving in a  
142 fiduciary capacity;

143 (iv) engaged in conduct prohibited by this section;

144 (v) had a registration or licensure as an athlete agent suspended, revoked or  
145 denied, or been refused renewal of registration or licensure as an athlete agent in any state;

146 (vi) engaged in conduct the consequence of which was that a sanction, suspension  
147 or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event  
148 was imposed on a student-athlete or educational institution; or

149 (vii) engaged in conduct that significantly adversely reflects on the applicant's  
150 credibility, honesty or integrity.

151 (i) A certificate of registration or a renewal of a registration shall be valid for 2 years.

152 (j) The state secretary may suspend, revoke or refuse to renew a registration for conduct  
153 that would have justified denial of registration under this section.

154 (k) The state secretary may deny, suspend, revoke or refuse to renew a certificate of  
155 registration or licensure only after proper notice and an opportunity for a hearing as provided  
156 pursuant to the provisions of chapter 30A.

157 (l) An application for registration or renewal of registration shall be accompanied by a fee  
158 to be determined by the commissioner of administration pursuant to section 3B of chapter 7.

159 (m) A contract or agreement between an athlete agent and a student athlete shall be in a  
160 record, signed or otherwise authenticated by the parties. The contract or agreement shall include,  
161 but not limited to, the following:

162 (i) the amount and method of calculating the consideration to be paid by the student-  
163 athlete for services to be provided by the athlete agent under the contract or agreement and any  
164 other consideration the athlete agent has received or will receive from any other source for  
165 entering into the contract or agreement or for providing the services;

166 (ii) the name of any person not listed in the application for registration or renewal of  
167 registration who will be compensated because the student-athlete signed the contract or  
168 agreement;

169 (iii) a description of any expenses that the student athlete agrees to reimburse;

170 (iv) a description of the services to be provided to the student athlete;

171 (v) the duration of the contract or agreement; and

172 (vi) the date of execution.

173 (n) A student athlete may cancel a contract or agreement with an athlete agent by giving  
174 notice of the cancellation to the athlete agent in a record within 10 days after the contract or  
175 agreement is signed.

176 (o) A student athlete may not waive the right to cancel a contract or agreement with an  
177 athlete agent.

178 (p) If a student athlete cancels a contract or agreement with an athlete agent, the student  
179 athlete shall not be required to pay any consideration under such contract or agreement to return  
180 any consideration received from the athlete agent to induce the student-athlete to enter into the  
181 contract or agreement, unless such cancellation is pursuant to subsection (n) of this section.

182 (q) An athlete agent shall retain the following records for a period of 5 years:

183 (i) the name and address of each individual represented by the athlete agent;

184 (ii) any contract or agreement entered into by the athlete agent; and

185 (iii) any direct costs incurred by the athlete agent in the recruitment or solicitation of a  
186 student-athlete to enter into a contract or agreement.

187 The records required to be retained pursuant this section shall be open to inspection by  
188 the state secretary during normal business hours.

189 The athlete agent shall give a record of the signed or otherwise authenticated contract or  
190 agreement to the student athlete at the time of execution.

191 (r) An athlete agent, with the intent to induce a student-athlete to enter into a contract or  
192 agreement, shall not:

193 (i) give any materially false or misleading information or make a materially false promise  
194 or representation;

195 (ii) furnish anything of value to a student-athlete before the student-athlete enters into the  
196 contract or agreement; or

197 (iii) furnish anything of value to any other individual or another registered athlete agent  
198 before the student-athlete enters into the contract or agreement;

199 (s) An athlete agent shall not willfully:

200 (i) initiate contact with a student-athlete unless registered pursuant to this section;

201 (ii) refuse or fail to retain or permit inspection of the records required to be retained by  
202 this section;

203 (iii) fail to register when required by this section;

204 (iv) provide materially false or misleading information in an application for registration  
205 or renewal of registration; or

206 (s) predate or postdate a contract or agreement with a student athlete.

207 (t) The state secretary may assess a civil penalty against an athlete agent not to exceed  
208 \$25,000 for a violation of the registration provisions of this section.

209 (u) Athlete agents representing student-athletes shall comply with the federal Sports  
210 Agent Responsibility and Trust Act, established in chapter 104 of title 15 of the United States  
211 Code, in their relationships with student-athletes