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**SUBSTITUTE SENATE BILL 5875**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Higher Education & Workforce Development (originally sponsored by Senator Palumbo)

AN ACT Relating to unfair practices involving compensation of athletes in higher education; adding a new section to chapter 19.86 RCW; creating new sections; and providing a contingent effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that every student enrolled at an institution of higher education in this state should have an equal right: To earn compensation for services provided; to be paid for the use of his or her name, image, and likeness; and to hire agents to represent the student's interests. The legislature further finds that students should not be compelled to choose between forfeiting these rights and participating in intercollegiate athletic competitions.

NEW SECTION. **Sec.**  A new section is added to chapter 19.86 RCW to read as follows:

(1) A collegiate association shall allow students to:

(a) Receive compensation for services actually provided, including, but not limited to, the use of the student's name, image, or likeness, as long as the compensation is commensurate with the market value of the services provided; and

(b) Be represented by an agent for any purpose.

(2) A student may bring a cause of action against a collegiate association for interference with the student's right to receive compensation and be represented by an agent, as provided under subsection (1) of this section, in superior court for injunctive relief, damages sustained by the student, or both, together with the costs of the suit, including reasonable attorneys' fees. In addition, the court may, in its discretion, increase the award of damages up to an amount not to exceed three times the actual damages sustained.

(3) An institution of higher education may bring a cause of action for injunctive relief, damages, reasonable attorneys' fees, and costs if a collegiate association takes adverse action or otherwise retaliates against the institution of higher education for a student filing a cause of action against the collegiate association.

(4) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying this chapter. A collegiate association prohibiting a student from receiving compensation or being represented by an agent and retaliating against an institution of higher education for a student filing a cause of action are not reasonable in relation to the development and preservation of business, are unfair or deceptive acts in trade or commerce, and are unfair methods of competition for the purpose of applying this chapter.

(5) For the purposes of this section:

(a) "Adverse action" includes, but is not limited to, terminating or suspending the membership of the institution of higher education in the collegiate association or prohibiting other members of the collegiate association from participating in intercollegiate athletic competitions with the institution of higher education;

(b) "Collegiate association" means any organization, unincorporated association, or other entity that has institutions of higher education, conferences, or other affiliated organizations as members and that promotes, sponsors, or regulates intercollegiate athletic competitions;

(c) "Damages" include, but are not limited to, compensation offered to the student and permitted under subsection (1) of this section, even if the student has not accepted the compensation;

(d) "Institution of higher education" includes any entity that is an institution of higher education as defined in RCW 28B.10.016 and any other degree-granting institution in this state as defined in RCW 28B.85.010;

(e) "Interference" includes, but is not limited to, prohibiting the student from engaging in conduct permitted by subsection (1) of this section and prohibiting the student from competing in an intercollegiate athletic competition sponsored by the collegiate association or otherwise penalizing the student because the student engaged in conduct permitted by subsection (1) of this section; and

(f) "Student" means any student enrolled at an institution of higher education.

NEW SECTION. **Sec.**  This act takes effect if, and on the date states representing at least fifteen percent of the population of the United States have enacted legislation that prohibits a collegiate association from denying the eligibility of a student to compete in intercollegiate athletic competitions organized or sponsored by the collegiate association on the basis of such student having received monetary compensation.

NEW SECTION. **Sec.**  The office of the attorney general must provide written notice of the effective date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the office of the attorney general.

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