

# **ASSEMBLY, No. 2106**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman LISA SWAIN**

**District 38 (Bergen and Passaic)**

**Assemblyman P. CHRISTOPHER TULLY**

**District 38 (Bergen and Passaic)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywomen Reynolds-Jackson, McKnight, Pinkin, Assemblyman  
Karabinchak and Assemblywoman Lopez**

**SYNOPSIS**

“New Jersey Fair Play Act”; allows collegiate student-athletes to earn compensation for use of name, image, or likeness.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/5/2020)**

**A2106 SWAIN, TULLY**

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1   **AN ACT** concerning student-athletes at certain institutions of higher  
2       education and supplementing chapter 3B of Title 18A of the New  
3       Jersey Statutes.  
4

5       **BE IT ENACTED** by the Senate and General Assembly of the State  
6       of New Jersey:  
7

8       1. This act shall be known and may be cited as the “New Jersey  
9       Fair Play Act.”  
10

11       2. a. A four-year institution of higher education shall not:  
12           (1) uphold any rule, requirement, standard, or other limitation  
13           that prevents a student of that institution participating in  
14           intercollegiate athletics from earning compensation as a result of  
15           the use of the student’s name, image, or likeness.

16           Except as otherwise provided pursuant to subsection b. of this  
17           section, earning compensation from the use of a student’s name,  
18           image, or likeness shall not affect the student’s institutional  
19           scholarship eligibility. An institutional scholarship shall not be  
20           considered compensation for the purposes of this act and a  
21           scholarship shall not be revoked as a result of a student earning  
22           compensation or obtaining professional representation;

23           (2) provide a prospective student-athlete with compensation in  
24           relation to the student-athlete’s name, image, or likeness; or

25           (3) prevent a student participating in intercollegiate athletics  
26           from obtaining professional representation in relation to contracts or  
27           legal matters including, but not limited to, representation provided  
28           by athlete agents or legal representation provided by attorneys.

29           Legal representation obtained by student-athletes shall be from  
30           attorneys licensed by the State. Athlete agents representing student-  
31           athletes shall comply with the federal “Sports Agent Responsibility  
32           and Trust Act” (15 U.S.C. s.7801 et seq.) in their relationship with  
33           student-athletes.

34       b. Notwithstanding the provisions of subsection a. of this  
35       section to the contrary, a student participating in intercollegiate  
36       athletics shall be prohibited from earning compensation as a result  
37       of the use of the student’s name, image, or likeness in connection  
38       with any person, company, or organization related to or associated  
39       with the development, production, distribution, wholesaling, or  
40       retailing of: adult entertainment products and services; alcohol  
41       products; casinos and gambling, including sports betting, the  
42       lottery, and betting in connection with video games, on-line games,  
43       and mobile devices; tobacco and electronic smoking products and  
44       devices; pharmaceuticals; a controlled dangerous substance; and  
45       weapons, including firearms and ammunition.

46       Earning compensation from the use of a student’s name, image,  
47       or likeness in connection with products and services listed pursuant

1 to this subsection shall result in the revocation of the student's  
2 institutional scholarship eligibility.

3

4       3. A four-year institution of higher education shall not be a  
5 member of any athletic association, conference, or other group or  
6 organization with authority over intercollegiate athletics including,  
7 but not limited to, the National Collegiate Athletic Association,  
8 that:

9       a. prohibits a student-athlete participating in intercollegiate  
10 athletics from earning compensation as a result of the use of the  
11 student's name, image, or likeness;

12       b. prohibits an institution of higher education from  
13 participating in intercollegiate athletics as a result of the  
14 compensation of a student-athlete for the use of the student's name,  
15 image, or likeness;

16       c. provides a prospective student-athlete with compensation in  
17 relation to the student-athlete's name, image, or likeness; or

18       d. prevents a student participating in intercollegiate athletics  
19 from obtaining professional representation in relation to contracts or  
20 legal matters including, but not limited to, representation provided  
21 by athlete agents or legal representation provided by attorneys.

22

23       4. a. A student-athlete who enters into a contract providing  
24 compensation to the student-athlete for use of his name, image, or  
25 likeness shall disclose the contract to an official of the four-year  
26 institution of higher education, to be designated by the institution.

27       b. A student-athlete shall not enter into a contract providing  
28 compensation to the student-athlete for use of his name, image, or  
29 likeness if a provision of the contract:

30       (1) conflicts with a provision of the student-athlete's team  
31 contract; or

32       (2) conflicts with the provisions of subsection b. of section 2 of  
33 this act.

34       c. An institutional team contract shall not prevent a student-  
35 athlete from using the athlete's name, image, or likeness for a  
36 commercial purpose when the athlete is not engaged in official team  
37 activities.

38       d. An institutional team contract shall allow the institution,  
39 athletic association, conference, or other group or organization with  
40 authority over intercollegiate athletics to use the athlete's name,  
41 image, or likeness for advertising and marketing purposes without  
42 additional compensation paid to the student-athlete.

43       e. An institution asserting a conflict pursuant to subsection b.  
44 of this section shall disclose to the student-athlete and to the  
45 student-athlete's professional representation the relevant contractual  
46 provisions that are in conflict.

1       5. This act shall take effect immediately and shall first be  
2 applicable in the fifth academic year following the date of  
3 enactment.  
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5  
6                       STATEMENT  
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8       This bill allows certain collegiate student-athletes to earn  
9 compensation for the use of their name, image, or likeness. Under  
10 the bill, a four-year institution of higher education will be  
11 prohibited from upholding any rule, requirement, standard, or other  
12 limitation that prevents a student of that institution participating in  
13 intercollegiate athletics from earning compensation as a result of  
14 the use of the student's name, image, or likeness. Earning  
15 compensation from the use of a student's name, image, or likeness  
16 will not affect the student's institutional scholarship eligibility.

17       The bill specifies, however, that a student is prohibited from  
18 earning compensation as a result of the use of the student's name,  
19 image, or likeness in connection with any person, company, or  
20 organization related to or associated with the development,  
21 production, distribution, wholesaling, or retailing of: adult  
22 entertainment products and services; alcohol products; casinos and  
23 gambling, including sports betting, the lottery, and betting in  
24 connection with video games, on-line games, and mobile devices;  
25 tobacco and electronic smoking products and devices;  
26 pharmaceuticals; controlled dangerous substances; and weapons,  
27 including firearms and ammunition.

28       Under the bill, a four-year institution is prohibited from being a  
29 member of any athletic association, conference, or other group or  
30 organization with authority over intercollegiate athletics, including  
31 but not limited to, the National Collegiate Athletic Association,  
32 that:

- 33       • prohibits a student-athlete participating in intercollegiate  
34           athletics from earning compensation as a result of the use  
35           of the student's name, image, or likeness;
- 36       • prohibits an institution of higher education from  
37           participating in intercollegiate athletics as a result of the  
38           compensation of a student-athlete for the use of the  
39           student's name, image, or likeness;
- 40       • provides a prospective student-athlete with compensation  
41           in relation to the student-athlete's name, image, or  
42           likeness; or
- 43       • prevents a New Jersey student participating in  
44           intercollegiate athletics from obtaining professional  
45           representation in relation to contracts or legal matters  
46           including, but not limited to, representation provided by  
47           athlete agents or legal representation provided by  
48           attorneys.

**A2106 SWAIN, TULLY**

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1       The bill provides that a student-athlete who enters into a contract  
2 providing compensation to the student-athlete for use of his name,  
3 image, or likeness must disclose the contract to an official of the  
4 four-year institution of higher education, to be designated by the  
5 institution. An institutional team contract may not prevent a  
6 student-athlete from using the athlete's name, image, or likeness for  
7 a commercial purpose when the athlete is not engaged in official  
8 team activities.