To establish name, image, likeness, and athletic reputation rights for college athletes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “College Athlete Economic Freedom Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) ATHLETE AGENT.—The term “athlete agent” has the meaning given the term in section 2
of the Sports Agent Responsibility and Trust Act

(2) ATHLETIC REPUTATION.—The term “athletic reputation” means, with respect to a college athlete or prospective college athlete, the recognition or fame of the athlete relating to the participation or performance of the college athlete or prospective college athlete in a sport.

(3) COLLEGE ATHLETE.—The term “college athlete” means an individual who participates in or is eligible to participate in an intercollegiate sport for an institution of higher education.

(4) COMPENSATION.—The term “compensation”—

(A) means any payment, remuneration, or benefit provided to a college athlete or prospective college athlete in exchange for the use of the name, image, likeness, or athletic reputation of the college athlete or prospective college athlete; and

(B) does not include—

(i) a grant-in-aid; or

(ii) a stipend scholarship from the institution of higher education in which a college athlete is enrolled.
(5) Grant-in-aid.—The term “grant-in-aid” means a scholarship, grant, or other form of financial assistance that is provided by an institution of higher education to a college athlete for the college athlete’s undergraduate or graduate course of study.

(6) Image.—The term “image”, with respect to a college athlete or prospective college athlete, means any photograph, video, or computer-generated representation that reasonably identifies the college athlete or prospective college athlete.

(7) Institution of higher education.—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(8) Intercollegiate athletic association.—The term “intercollegiate athletic association” means any association, conference, or other group or organization that—

(A) exercises authority over intercollegiate athletics and the recruitment of college athletes or prospective college athletes; and

(B) is engaged in interstate commerce or in any industry or activity affecting interstate commerce.
(9) LIKENESS.—The term “likeness”, with respect to a college athlete or prospective college athlete, means the uniquely identifiable voice, catch phrase, or any other mark that when used in a context that reasonably identifies the college athlete or prospective college athlete.

(10) NAME.—The term “name”, with respect to a college athlete or prospective college athlete, means the first or last name, or a nickname, of the college athlete or prospective college athlete when used in a context that reasonably identifies the college athlete or prospective college athlete.

(11) PROSPECTIVE COLLEGE ATHLETE.—The term “prospective college athlete” means an individual who—

(A) has not enrolled at an institution of higher education; and

(B) may be recruited by an institution of higher education.

(12) THIRD PARTY.—The term “third party” means an individual or entity other than an institution of higher education or an intercollegiate athletic association.
SEC. 3. ATHLETE RIGHTS TO MARKET NAME, IMAGE, LIKENESS, AND ATHLETIC REPUTATION.

(a) Right To Market Use of Name, Image, Likeness, and Athletic Reputation.—

(1) In General.—An institution of higher education or intercollegiate athletic association may not enact or enforce any rule, requirement, standard, or other limitation that prevents college athletes or prospective college athletes, individually or as a group, from marketing the use of their names, images, likenesses, and athletic reputations.

(2) Collusion.—An institution of higher education may not coordinate with any other institution of higher education or third party to limit the amount of payment offered to a college athlete, prospective college athlete, or group of college athletes or prospective college athletes under a contract for the use of the name, image, likeness, or athletic reputation of the college athlete, prospective college athlete, or group of college athletes or prospective college athletes.

(3) Right To Collective Representation.—An institution of higher education or intercollegiate athletic association may not enact or enforce any rule, requirement, standard, or other limitation, or engage in conduct that prevents college
athletes from forming or recognizing, or interferes with such formation or recognition of, a collective representative to facilitate group licensing agreements or provide representation for college athletes.

(4) GROUP LICENSING.—A third party may not use the name, image, likeness, or athletic reputation of any member of a group of college athletes to market any product unless the third party obtains a license from the group for that purpose.

(5) GRANTS-IN-AID.—Receipt of compensation for the use of the name, image, likeness, or athletic reputation of a college athlete or prospective college athlete shall not adversely affect—

(A) the eligibility or opportunity of a college athlete or prospective college athlete to apply for a grant-in-aid; or

(B) the amount, duration, or renewal of the grant-in-aid of a college athlete or prospective college athlete.

(6) EQUITABLE INSTITUTIONAL SUPPORT.—An institution of higher education, an intercollegiate athletic association, or a party affiliated with an institution of higher education or an intercollegiate athletic association that provides direct or indirect support to college athletes with respect to the mar-
keting of their names, images, likenesses, and athletic reputations shall make such support accessible to all college athletes in the applicable athletic program, regardless of gender, race, or participating sport.

(b) **Right to Representation.**—

(1) **Ability for College Athletes to Retain Representation.**—An institution of higher education or intercollegiate athletic association may not prevent a college athlete or prospective college athlete from fully participating in intercollegiate athletics based on the college athlete or prospective college athlete having obtained professional representation with respect to a contract or legal matter, including—

(A) representation provided by an athlete agent or financial advisor; and

(B) legal representation provided by an attorney.

(2) **Prohibitions on the Regulation of Representation.**—An institution of higher education or intercollegiate athletic association may not regulate the legal, financial, or agency representation of college athletes and prospective college athletes with respect to the marketing of their names,
images, likenesses, or athletic reputations, including
the certification of such legal, financial, or agency
representation.

(c) Prohibition on Waiver.—A college athlete, a
prospective college athlete, an institution of higher edu-
cation, an intercollegiate athletic association, or any other
person may not enter into any agreement or a legal settle-
ment that waives or permits noncompliance with this Act.

SEC. 4. GRANTS FOR ANALYZING NAME, IMAGE, LIKENESS,
AND ATHLETIC REPUTATION MONETIZATION.

(a) Definitions.—In this section:

(1) Eligible entity.—The term “eligible enti-
ty” means—

(A) a business in the United States;
(B) a public or private education and re-
search organization in the United States; or
(C) a consortium of entities described in
subparagraph (A) or (B).

(2) Secretary.—The term “Secretary” means
the Secretary of Commerce.

(b) Grants Authorized.—Annually, the Secretary
may award a grant to, or enter into a contract or a cooper-
ative agreement with, an eligible entity for the purpose
of conducting a market analysis of the monetization of the
rights granted to college athletes under this Act during the 1-year period preceding the date of the analysis.

(c) REQUIREMENTS.—An eligible entity that receives a grant or enters into a contract or cooperative agreement to conduct an analysis under subsection (b) shall—

(1) make the analysis and information relating to the analysis publicly available, including—

(A) the surveys and interviews the eligible entity conducted during the course of the analysis; and

(B) estimates of the compensation received by college athletes during the 1-year period preceding the date of the analysis as a result of the monetization of the names, images, likenesses, and athletic reputations of those college athletes, separated by—

(i) gender;

(ii) race; and

(iii) sport; and

(2) provide recommendations to the Secretary to address any disparate estimates described in paragraph (1)(B).

(d) PUBLIC AVAILABILITY OF RECOMMENDATIONS.—The Secretary shall make any recommendations received under subsection (c)(2) publicly available.
(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

SEC. 5. ENFORCEMENT PROVISIONS.

(a) Unfair or Deceptive Act or Practice.—

(1) In General.—A violation of section 3 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Actions by the Commission.—The Commission shall enforce section 3 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(3) Enforcement Related to Nonprofit Organizations.—Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46) or any jurisdictional limitation of the Federal Trade Commission, the Commission shall also enforce this Act and the regulations promulgated under this Act, in the same manner provided in paragraphs (1) and (2) of this
subsection, with respect to organizations not organ-
ized to carry on business for their own profit or
that of their members.

(b) Private Right of Action.—

(1) In general.—An individual who is ag-
grieved by a violation of section 3 may bring a civil
action in an appropriate Federal district court of
competent jurisdiction.

(2) Damages; costs and attorney’s fees.—
A court may award to a prevailing party in a civil
action brought under paragraph (1)—

(A) actual damages sustained by the party
as a result of the violation that is the subject
of the action; and

(B) the costs of the action and reasonable
attorney’s fees.

(c) Sherman Act.—A violation of this Act shall be
deemed to be a per se violation of the Sherman Act (15
U.S.C. 1 et seq.) and subject to all remedies and rights
afforded under that Act.

SEC. 6. STATE PREEMPTION.

(a) In general.—A State may not enforce a State
law relating to the ability of college athletes to enter into
contracts for the use of their names, images, likenesses,
or athletic reputations pursuant to this Act.
(b) Exception for the Certification of Athlete Agents.—A State may enforce a State law or regulation relating to the certification of athlete agents under the Sports Agent Responsibility and Trust Act (15 U.S.C. 7801 et seq.).

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act shall affect the treatment of qualified scholarships under section 117 of the Internal Revenue Code of 1986.