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**College & Workforce Development  
Committee**

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**HB 1084**

**Brief Description:** Concerning unfair practices involving compensation of athletes in higher education.

**Sponsors:** Representatives Stokesbary and Young.

**Brief Summary of Bill**

- Allows students to receive compensation for services provided, including payment for the use of the student's name, image, or likeness, and be represented by an agent for any purpose.
- Prohibits a person from suspending a student or an institution of higher education from competing in an intercollegiate athletic competition because the student is receiving compensation or is represented by an agent.
- Makes a violation of the prohibition a Consumer Protection Act violation.

**Hearing Date:** 1/23/19

**Staff:** Trudes Tango (786-7384).

**Background:**

The National Collegiate Athletic Association (NCAA) is a nonprofit organization whose voluntary membership includes colleges, universities, athletic conferences, and other affiliated organizations. The NCAA regulates intercollegiate athletic competitions in various sports across three divisions.

The NCAA issues and enforces rules governing athletic competitions among its member schools. The rules are developed by a member-led governance system in which members introduce and

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vote on proposed rules. The rules for student-athletes vary by division. In general, the NCAA's amateurism rules prohibit student-athletes from being paid for their athletic abilities, including being paid for commercial endorsements if the reason for being chosen for the commercial endorsement is because of the student's athletic ability. This prohibition includes compensation for the use of a student-athlete's name, image, and likeness in live games, telecast, videogames, and other footage.

Student-athletes are allowed to receive scholarships or "grant-in-aid" that covers tuition and fees, room and board, and required course-related books. However, a student's grant-in-aid may not exceed the cost of attendance at that school.

Over the last few years, there have been legal actions alleging that the NCAA's rules prohibiting student-athletes from receiving compensation for the use of their names, images, and likenesses are an unlawful restraint of trade and violate antitrust laws. In general, federal and state antitrust laws are intended to promote and foster competition in the marketplace and prevent anticompetitive mergers and business practices.

#### Consumer Protection Act.

Under the state's Consumer Protection Act (CPA), a variety of business practices are declared unlawful. These practices include engaging in unfair methods of competition and unfair or deceptive acts or practices in the conduct of commerce and monopolizing trade or commerce.

A person injured by a violation of the CPA may bring a private cause of action for injunctive relief and the recovery of actual damages and reasonable attorneys' fees. Recovery may also include triple damages, in some circumstances. In addition, the CPA allows the Attorney General to bring a CPA action in the name of the state or on behalf of persons residing in the state. An action by the Attorney General may seek to prevent or restrain violations of the act and may seek restoration for persons injured by violation of the CPA.

#### **Summary of Bill:**

The Legislature finds that every student enrolled at an institution of higher education in Washington should have an equal right to earn compensation for services provided, be paid for the use of his or her name, image, and likeness, and to hire agents to represent the student's interest.

Any student may receive compensation for services provided, including payment for the use of the student's name, image, or likeness, as long as the compensation is commensurate with the market value of the services. In addition, any student may be represented by an agent for any purpose.

No person may:

- prohibit or suspend any student from competing in an intercollegiate athletic competition, or otherwise penalize the student, because the student is receiving compensation or represented by an agent;
- prohibit or suspend an institution of higher education's athletic team from competing in an intercollegiate athletic competition, or otherwise penalize an institution, because a student enrolled at the institution is receiving compensation or represented by an agent;

- request or require that an institution of higher education prohibit a student from receiving compensation or having an agent, in order for the institution to be eligible to compete in intercollegiate athletic competitions; or
- discipline an institution of higher education for allowing a compensated or represented student to participate in an intercollegiate athletic competition, or for not allowing such a student to participate solely because the student is being compensated or is represented.

"Discipline" includes terminating or suspending the membership of an institution of higher education and prohibiting other members from participating in intercollegiate athletic competitions with an institution of higher education.

A violation of the prohibitions are declared unfair and deceptive acts in trade or commerce and unfair methods of competition for the purposes of the Consumer Protection Act.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.