

'Ohio State Basically Wrote This Bill': Inside Ohio's Name, Image And Likeness Bill



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The state of Ohio may have not been the first on the scene when it came to a name, image and likeness bill. But on May 24, state Sen. Niraj Antani (R-Miamisburg) made sure that the state got on the scene at all.

Antani, joined by Ohio State athletic director Gene Smith at the university's Covelli Center, announced the introduction of a bill into the state's senate that would "legalize college athletes earning compensation from their name, image and likeness," according to a release.

Matt Brown, publisher of Extra Points, a newsletter covering off-the-field topics for college sports, has studied a variety of NIL bills from states and spoke to BSB on what he believes makes Ohio's version of the bill stand out.

As far as where it lands on the spectrum of how open or constraining the bill will be for student-athletes, Brown believes it lands somewhere around the halfway point.

"It's similar to many of the other bills that I've seen, with a couple of exceptions," Brown said. "I think that's worth pointing out because if you're somebody that really wants Ohio to have a name, image and likeness bill to provide a recruiting advantage, I don't think this bill provides that. It's certainly not the most restrictive bill that I've seen; it's not the least restrictive; it's kind of around the middle.

"If you're someone who's invested in this and wants Ohio State to compete nationally and have the best chance to get every athlete, there's a potential for this to be a little restrictive."

Specifically, there are two areas of the bill's wording that stood out to Brown. The first is in Section 3376.06 Part D of the bill, where it states that student-athletes "shall disclose the proposed contract" with a university official "at least 15 days before the date the student intends to enter into the proposed contract."

"That's the most restrictive, most notice required anywhere. Most places don't require you to give any,"

Brown said. "I think Mississippi requires you to give a week. There might be one other one that has a week, 15 is the most. Now is that necessarily a deal breaker? Probably not, but it is some extra paperwork."

But the most major restriction in the Ohio bill, according to Brown, comes in Part C of the same section, where it states a student-athlete cannot enter a contract "that requires the student to display a sponsor's product, or otherwise advertise for a sponsor, during official team activities or any other time if that requirement is in conflict with a provision of a contract to which a state institution of higher education or private college is a party."

"As I understand it, it says that an athlete can't enter a name, image and likeness sponsorship arrangement if it conflicts with any pre-existing university sponsorship deal. And not just during official team business, but at any time," Brown said. "Here's why this is a big deal, because the common example is apparel, but like, I've talked to apparel companies, you know how many Ohio State athletes are going to be able to get a shoe deal, like across all sports? One, maybe two. The individual marketplace deals for athletic apparel, it's a small market. But Ohio State has sponsorships with literally everybody. There's an official soda pop. There's an official insurance company. There's an official grocery store.

"Ohio State doesn't have to exercise their right to block an athlete in every one of these, but if we're looking at 40 different industries, even in a place like Columbus, that can really limit your marketplace. That can basically limit you to saying you can work with a company that already works with your school, you can work with a social media national deal, or you could do something that's like a camp. But everything else is going to conflict with Ohio State."

As for why these were included, Brown believes it likely came from Ohio State itself, which Antani had said worked "hand in hand" in the creation of the legislation.

"Here's the truth. I think Ohio State basically wrote this bill," Brown said. "This isn't me casting a shot at any particular Ohio lawmaker, but from somebody who's been watching this now for months and has followed these individual bills. These lawmakers are generally not proposing these things because they are defenders of the cause of athlete free markets. They're doing it because they don't want their schools to be at a recruiting disadvantage.

"I think that somebody within Ohio State's legislative affairs team looked around, thought these were relatively boilerplate. They thought that they would protect Ohio State's interests, and nobody told them anything different."

Smith had discussed the possibility of the NCAA passing nationwide legislation on NIL, stating that he's hopeful it will happen at the Division I Council's meeting later in June. National legislation could also come through Congress, though that is something that Antani seemed to think was less likely when he said in his opening statement that he was "not confident in Congress' ability to get this done."

Brown thinks that there will eventually be a national NIL bill but that it won't be before Ohio's legislation is set to take effect, assuming it passes. The reasoning for that, at least for Congress, is simply that there are other important issues that are taking precedence over it.

"This is one of the only things where there's still actual bipartisan cooperation. Everybody in the Senate agrees that the NCAA sucks," Brown said. "And both Democrats and Republicans, not all of them, but

enough of them want to cooperate and do this. But this is not in the top 10 most important issues facing the U.S. Senate right now, and they're struggling to find time to do it."

But Brown said he doesn't believe it will matter for Ohio State, as he said it would shock him if the legislation going through the state senate right now did not get passed and go into action on July 1.

Brown also agrees with Antani that the student-athletes who stand to be helped the most from this legislation are not the stars of the football team but instead the lesser-known athletes on a variety of smaller programs.

"The people that I think that are honest to God most likely to benefit from this, and would be most disadvantaged if this doesn't happen, would not be Ohio State's football team," Brown said. "It would be Ohio State's women's lacrosse program. It would be the baseball team. It would be Olympic athletes, because that is the pool that I think stands to benefit from this the most.

"You and I both know that in football recruiting football coaches are going to say literally anything even if it's divorced from reality. So if Ohio State has to wait seven more weeks to cash in on name, image and likeness compared to their peers, Ryan Day will spin up some shit and they're probably going to be OK. But for kids that don't have a gigantic NFL payday coming down the line and don't have this infrastructure supporting them, having to wait I think would be unfortunate."