

**ASSEMBLY BILL**

**No. 1435**

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**Introduced by Assembly Member Gonzalez Fletcher**

February 17, 2017

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An act to add Chapter 15.8 (commencing with Section 67394) to Part 40 of Division 5 of Title 3 of the Education Code, relating to student athletes, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1435, as introduced, Gonzalez Fletcher. The Athlete Protection Act.

Existing law provides for a system of postsecondary education in this state. This system includes the University of California, administered by the Regents of the University of California, the California State University, administered by the Trustees of the California State University, the California Community Colleges, administered by the Board of Governors of the California Community Colleges, and independent institutions of higher education. Existing law further provides a Student Athlete Bill of Rights.

This bill would establish the Athlete Protection Act under the administration of the Athlete Protection Commission, which would be established by the bill, for the protection of college or university athletes participating in intercollegiate athletic programs offered by institutions of higher education located in California. The act would charge the commission with specified duties related to the protection of these athletes and would subject individuals who commit violations of the act to penalties, which may include civil liability or a temporary or permanent prohibition from employment at institutions of higher education, pursuant to regulations to be adopted by the commission.

The bill would make the provisions of the Athlete Protection Act severable.

This bill would require an athletic conference, as defined, and an institution of higher education located in California with an intercollegiate athletic program that does not belong to an athletic conference to pay regulatory fees, as determined by the commission, to be deposited in the Athlete Protection Act Fund, which this bill would establish. The bill would continuously appropriate the moneys in the fund to the commission for the purposes of the Athlete Protect Act.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 15.8 (commencing with Section 67394)  
2 is added to Part 40 of Division 5 of Title 3 of the Education Code,  
3 to read:

4  
5           CHAPTER 15.8. THE ATHLETE PROTECTION ACT  
6

7           Article 1. Title  
8

9       67394. This chapter shall be known, and may be cited, as the  
10 Athlete Protection Act.

11  
12           Article 2. Findings  
13

14       67394.1. The Legislature finds and declares all of the following:  
15       (a) Maximizing safety, transparency, and a quality education  
16 for intercollegiate athletes should be a priority for intercollegiate  
17 sports programs, conferences, and associations.

18       (b) The National Football League admits that chronic traumatic  
19 encephalopathy (CTE), a serious and degenerative neurological  
20 disease, is linked to playing football; and college football players  
21 are at risk.

22       (c) The National Collegiate Athletic Association (NCAA) was  
23 originally founded to protect intercollegiate athletes, but now it  
24 denies that it has a duty to protect them, refuses to mandate  
25 comprehensive best practices regarding CTE and other serious

1   injuries, and fails to enact remedies when made aware of athlete  
2   abuse.

3   (d) Athletic conferences and athletic associations fail to adopt  
4   and enforce comprehensive best practices to reduce the risk of  
5   CTE, hazards associated with the misuse of prescription pain  
6   killers, and other serious injuries.

7   (e) Intercollegiate sports programs, including coaches and team  
8   medical staff, have a conflict of interest that can result in pressuring  
9   athletes to compete with serious injuries and in life-threatening  
10   situations.

11   (f) Coaches often pressure trainers to return concussed players  
12   to the same game in which they are concussed, and almost one-half  
13   of athletic trainers surveyed report doing so.

14   (g) Intercollegiate athletes can be threatened with retaliation if  
15   they resist or report a coach's demand for them to play with a  
16   serious injury or confront an athletic staff's abusive behavior.

17   (h) Colleges often mishandle investigations of abuse, as  
18   evidenced by the United States Department of Education's Office  
19   of Civil Rights investigations of over 120 colleges for mishandling  
20   claims of student sexual abuse. More than 10 of the colleges  
21   investigated are located in California.

22   (i) Intercollegiate athletes participating in sports with current  
23   and historically low graduation rates spend 40 hours or more per  
24   week for their sports.

25   (j) Athletic conferences have among the worst academic gaps  
26   between regular students and baseball, basketball, and football  
27   players competing in Division I of the NCAA.

28   (k) A lack of safeguards will continue to subject college athletes  
29   to higher risks of poor graduation rates, serious injury, and death.

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### Article 3. Definitions

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32   67394.2. For the purposes of this chapter, the following terms  
33   have the following meanings:

34   (a) "Athletic association" means an association of athletic  
35   conferences or institutions of higher education.

36   (b) "Athletic conference" means an entity comprised of  
37   institutions of higher education that is a member of an athletic  
38   association.

1 (c) "Athletic program" means an intercollegiate athletic program  
2 at an institution of higher education. Club and intramural programs  
3 are excluded.

4 (d) "College athlete" means a college or university student that  
5 participates in an athletic program.

6 (e) "Commission" means the Athlete Protection Commission  
7 established pursuant to Section 67394.3.

8 (f) "Institution of higher education" means, notwithstanding  
9 Section 67400, a campus of the University of California, the  
10 California State University, a four-year private university or  
11 independent institution of higher education located in California,  
12 or a public or private two-year college located in California that  
13 maintains an athletic program.

14 (g) "Personnel" means one or more representatives of an athletic  
15 association, an athletic conference, or an institution of higher  
16 education who is an athletics employee, coach, assistant, or  
17 affiliated health care professional. Personnel also includes  
18 intercollegiate athletics stakeholders contracted with an athletic  
19 association, an athletic conference, or an institution of higher  
20 education.

#### Article 4. Athlete Protection Commission

24 67394.3. (a) The Athlete Protection Commission is hereby  
25 established for the administration of this act.

26 (b) (1) The members of the commission shall be appointed as  
27 follows:

28 (A) Three members appointed by the Governor.

29 (B) Three members appointed by the Speaker of the Assembly.

30 (C) Three members appointed by the President pro Tempore of  
31 the Senate.

32 (2) (A) The commission members appointed pursuant to  
33 paragraph (1) shall be part-time positions. One member shall be  
34 appointed by majority vote of the members to serve as chair of the  
35 commission. There shall be one member appointed with expertise  
36 for each of the following areas:

- 37 (i) Sports medicine.
- 38 (ii) Traumatic brain injury in contact sports.
- 39 (iii) Athletic strength and conditioning training.
- 40 (iv) Athlete abuse.

- 1       (v) College academic advising.
- 2       (vi) College athletics governance and reform.
- 3       (vii) Sports economics.
- 4       (viii) Athlete protection advocacy. The member appointed  
5 pursuant to this clause shall be a former female college athlete.
- 6       (ix) Athlete protection advocacy. The member appointed  
7 pursuant to this clause shall be a former male college athlete.
- 8       (B) The commission shall appoint, by majority vote of its  
9 members, an executive director. The executive director shall be a  
10 full-time position. The executive director shall appoint commission  
11 staff to assist him or her and the commission during his or her term  
12 of office.
- 13      (C) Each commission member and the executive director shall  
14 be appointed to serve a four-year term of office, with no term  
15 limits. The member and the executive director may be reappointed  
16 to his or her position, or a new position, pursuant to this  
17 subdivision.
- 18      (D) No appointee pursuant to this subdivision shall have served  
19 as personnel within the 10 years immediately preceding his or her  
20 appointment.
- 21      67394.4. (a) The commission shall have all of the following  
22 duties:
  - 23       (1) Gather input from relevant stakeholders to establish, and  
24 disseminate to every athletic association, athletic conference, and  
25 institution of higher education, both of the following:
    - 26       (A) Best practices to minimize injuries and ensure transparency  
27 of injury treatment options.
    - 28       (B) Up-to-date information about pivotal sports-related health  
29 risks.
  - 30       (2) Develop policy guidelines and mandates. These guidelines  
31 and mandates, at minimum, shall ensure that all of the following  
32 occurs:
    - 33       (A) Every institution of higher education maintains accurate  
34 medical records for each of its college athletes, and provides the  
35 athlete with access to his or her medical records.
    - 36       (B) Every college athlete receives adequate time to study, has  
37 freedom to pursue an academic major or majors of his or her choice  
38 without pressure, and completes one or more postsecondary degree  
39 programs.

1       (C) There is transparency on college athlete protections and the  
2 prevention of deceptive or fraudulent business practices that harm  
3 college athletes.

4       (3) Conduct surveys of college athletes and personnel.

5       (4) Perform compliance inspections as determined by the  
6 commission.

7       (5) Exercise subpoena power, if necessary, to obtain useful  
8 information to carry out its duties under this chapter.

9       (6) Hold quarterly meetings.

10      (7) Distribute, commencing in 2019, on or before January 1 of  
11 each year, an annual report to each institution of higher education,  
12 athletic conference, and athletic association and to the Legislature,  
13 pursuant to Section 9795 of the Government Code, regarding the  
14 state of college athlete protections under this chapter.

15      (8) Determine which of its guidelines, materials, and other  
16 information may benefit high school athletes, high school sports  
17 programs, and the California Interscholastic Federation, and make  
18 them available and easily accessible to the public.

19      (9) Consider collaborative and cost-reduction efforts with other  
20 states, intercollegiate sports conferences and associations that are  
21 not comprised of at least one institution of higher education, and  
22 higher education institutions with intercollegiate sports programs  
23 that are not located in California to improve the treatment of  
24 intercollegiate athletes in other states.

25      (10) Create advisory boards, as needed, comprised of individuals  
26 and organizations with expertise relevant to the implementation  
27 of this chapter.

28      (11) Use fees continuously appropriated to it from the Athlete  
29 Protection Act Fund, established in subdivision (b) of Section  
30 67394.7, to execute its duties under this chapter.

31      (12) Develop processes for it to receive, track, and investigate  
32 complaints regarding suspected violations of this chapter.

33      (13) Issue penalties pursuant to Section 67394.6 and remedies  
34 for violations of this chapter.

35      (b) Until the commission receives fees pursuant to Section  
36 67394.7, the commission shall only have the power to perform its  
37 functions under this chapter that do not incur costs to the  
38 commission.

39      (c) The commission shall adopt regulations to implement this  
40 chapter.

## Article 5. College Athlete Protections

3       67394.5. (a) Individuals, including college athletes or other  
4 students, who report suspected violations of this chapter shall have  
5 whistleblower protection. Personnel who retaliate against these  
6 individuals shall be subject to penalties pursuant to Section  
7 67394.6.

8 (b) Personnel who knowingly provide false information or  
9 attempt to obstruct an investigation by the commission of a  
10 violation of this chapter shall be subject to penalties pursuant to  
11 Section 67394.6.

12 (c) Personnel that reduces or cancels the athletic participation  
13 or eligibility of, imposes a financial penalty or penalties on, or  
14 otherwise retaliates against, a college athlete, an institution of  
15 higher education, an athletic conference, or an athletic association,  
16 or other personnel for complying with this chapter shall be subject  
17 to penalties pursuant to Section 67394.6.

18 (d) (1) By February 15, 2018, personnel shall be deemed  
19 mandated reporters required to report each instance of reasonably  
20 suspected violations of this chapter to the commission. Personnel  
21 failing to comply with mandated reporting requirements shall be  
22 subject to penalties pursuant to Section 67394.6.

23 (2) All reports of suspected violations of this chapter before the  
24 commission commences its initial operations shall be made to the  
25 Department of Justice and directly forwarded by the department  
26 to the commission once it commences its initial operations.

27 (e) (1) By February 15, 2018, each institution of higher  
28 education, athletic conference, and athletic association shall comply  
29 with all of the following:

30 (A) Inform their personnel of their responsibilities and college  
31 athlete protections established by or pursuant to this chapter.

32 (B) Inform college athletes of their rights and protections under  
33 this chapter, including all guidelines and mandates adopted by the  
34 commission pursuant to paragraph (2) of subdivision (a) of Section  
35 67394.4, if any, and inform them of their right to report suspected  
36 violations of this chapter to a mandated reporter of their choice  
37 pursuant to subdivision (d), the Department of Justice, or the  
38 commission once it commences its initial operations.

39 (C) Designate at least one employee to oversee compliance with  
40 this chapter and to serve as a point of contact for the commission.

1       (2) Each institution of higher education, athletic conference,  
2 and athletic association shall annually inform their personnel and  
3 college athletes pursuant to subparagraphs (A) and (B) of paragraph  
4 (1) before the start of each academic year.

67394.6. (a) An individual who commits a violation of this  
6 chapter shall be subject to penalties established pursuant to  
7 regulations adopted by the commission. Penalties may include  
8 any, or any combination, including all, of the following:

## 9 (1) Civil liability.

10 (2) Temporary or permanent prohibition from employment at  
11 institutions of higher education.

12 (3) Other penalties imposed by the commission.

13 (b) Contracts entered into on or after January 1, 2018, that would  
14 provide any form of compensation to an individual who is under  
15 suspension or termination of his or her employment for violation  
16 of this chapter are void.

## Article 6. Financial Provisions

67394.7. (a) (1) An athletic conference and an institution of higher education with an athletic program that does not belong to an athletic conference shall pay annual fees, in an amount determined by the commission to cover the reasonable regulatory costs of this chapter, to be deposited in the Athlete Protection Act Fund established in subdivision (b).

26 (2) To the greatest extent feasible, the fees assessed pursuant  
27 to this section shall not be paid with new or increased student fees.  
28 An athletic conference or institution of higher education that  
29 refuses to pay the fees, or uses accounting maneuvers in an attempt  
30 to avoid paying the fees, shall be in violation of this chapter and  
31 shall be subject to penalties pursuant to Section 67394.6.

32 (b) The Athlete Protection Act Fund is hereby established in  
33 the State Treasury under the administration of the State Treasurer's  
34 Public Finance Division. Fees received pursuant to subdivision  
35 (a) shall be deposited in the fund and continuously appropriated  
36 to the commission for the purposes of this chapter.

## Article 7. Miscellaneous

3       67394.8. The provisions of this chapter are severable. If any  
4 provision of this chapter or its application is held invalid, that  
5 invalidity shall not affect other provisions or applications that can  
6 be given effect without the invalid provision or application.

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