

AMENDMENT TO H.R. 4312

OFFERED BY MRS. TRAHAN OF MASSACHUSETTS

Page 18, strike lines 6 through 22.

Page 25, after line 15, insert the following (and re-designate subsequent sections accordingly):

1 SEC. 8. ENFORCEMENT.

2 (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-
3 SION.—

4 (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-
5 TICES.—A violation of this Act, and any amendment
6 made by this Act, shall be treated as a violation of
7 a regulation under section 18(a)(1)(B) of the Fed-
8 eral Trade Commission Act (15 U.S.C.
9 57a(a)(1)(B)) regarding unfair or deceptive acts or
10 practices.

11 (2) POWERS OF COMMISSION.—The Commis-
12 sion shall enforce this Act, and any amendment
13 made by this Act, in the same manner, by the same
14 means, and with the same jurisdiction, powers, and
15 duties as though all applicable terms and provisions
16 of the Federal Trade Commission Act (15 U.S.C. 41
17 et seq.) were incorporated into and made a part of

1 this Act, and any person who violates this Act, and
2 any amendment made by this Act, shall be subject
3 to the penalties and entitled to the privileges and
4 immunities provided in the Federal Trade Commis-
5 sion Act.

6 (3) APPLICABILITY TO INTERSTATE INTER-
7 COLLEGIATE ATHLETIC ASSOCIATIONS, CON-
8 FERENCES, AND INSTITUTIONS.—Notwithstanding
9 section 4, 5(a)(2), or 6 of the Federal Trade Com-
10 mission Act (15 U.S.C. 44, 45(a)(2), 46) or any ju-
11 risdictional limitation of the Commission, the Com-
12 mission shall also enforce this Act in the same man-
13 ner provided in paragraphs (1) and (2), with respect
14 to interstate intercollegiate athletic associations, con-
15 ferences, and institutions.

16 (4) RULE OF CONSTRUCTION.—Nothing in this
17 section may be construed to limit the authority of
18 the Commission under any other provision of law.

19 (b) ACTIONS BY STATES.—

20 (1) IN GENERAL.—In any case in which the at-
21 torney general of a State, or an official or agency of
22 a State, has reason to believe that an interest of the
23 student athletes of such State has been or is threat-
24 ened or adversely affected by an act or practice in
25 violation of this Act, the State, as *parens patriae*,

1 may bring a civil action on behalf of the student ath-
2 letes enrolled at an institution of the State in an ap-
3 propriate district court of the United States to ob-
4 tain appropriate relief.

5 (2) NOTICE.—Before filing an action under this
6 subsection, the attorney general, official, or agency
7 of the State involved shall provide to the Commis-
8 sion a written notice of such action and a copy of
9 the complaint for such action. If the attorney gen-
10 eral, official, or agency determines that it is not fea-
11 sible to provide the notice described in this para-
12 graph before the filing of the action, the attorney
13 general, official, or agency shall provide written no-
14 tice of the action and a copy of the complaint to the
15 Commission immediately upon the filing of the ac-
16 tion.

17 (3) AUTHORITY OF FEDERAL TRADE COMMIS-
18 SION.—

19 (A) IN GENERAL.—On receiving notice
20 under paragraph (2) of an action under this
21 subsection, the Commission shall have the
22 right—

23 (i) to intervene in the action;

24 (ii) upon so intervening, to be heard

25 on all matters arising therein; and

1 (iii) to file petitions for appeal.

2 (B) LIMITATION ON STATE ACTION WHILE
3 FEDERAL ACTION IS PENDING.—If the Commis-
4 sion or the Attorney General of the United
5 States has instituted a civil action for violation
6 of this section (referred to in this subparagraph
7 as the “Federal action”), no State attorney
8 general, official, or agency may bring an action
9 under this subsection during the pendency of
10 the Federal action against any defendant
11 named in the complaint in the Federal action
12 for any violation of this section alleged in such
13 complaint.

14 (4) RULE OF CONSTRUCTION.—For purposes of
15 bringing a civil action under this subsection:

16 (A) IN GENERAL.—Nothing in this section
17 may be construed to prevent an attorney gen-
18 eral, official, or agency of a State from exer-
19 cising the powers conferred on the attorney
20 general, official, or agency by the laws of such
21 State to conduct investigations, administer
22 oaths and affirmations, or compel the attend-
23 ance of witnesses or the production of documen-
24 tary and other evidence.

1 (B) DEFINITIONS.—The term “student
2 athlete” refers to a student athlete enrolled at
3 an institution primarily operating in such State.

4 (c) SUIT BY STUDENT ATHLETES INJURED.—

5 (1) CIVIL ACTION.—Any student athlete or
6 group of student athletes injured by a violation of
7 section 3 or 5 this Act may bring a civil action in
8 any appropriate Federal district court of the United
9 States.

10 (2) REMEDIES.—In a civil action brought under
11 paragraph (1)—

12 (A) the court may provide such prelimi-
13 nary and other equitable or declaratory relief as
14 may be appropriate, including a pause on or
15 cessation of any rule promulgated by an inter-
16 state intercollegiate athletic association, con-
17 ference, or institution; and

18 (B) in which the plaintiff prevails, the
19 court shall award the plaintiff an amount equal
20 to the sum of—

21 (i) a reasonable estimate of actual
22 damages, including nonpecuniary damages;
23 and

1 (ii) reasonable attorney's fees and liti-
2 gation costs.

