



House of Representatives

General Assembly

File No. 272

January Session, 2003

Substitute House Bill No. 5011

House of Representatives, April 9, 2003

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ADOPTING THE UNIFORM ATHLETE AGENTS ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2004*) This act may be cited as
2 the Uniform Athlete Agents Act.

3 Sec. 2. (NEW) (*Effective January 1, 2004*) As used in this act:

4 (1) "Agency contract" means an agreement in which a student-
5 athlete authorizes a person to negotiate or solicit on behalf of the
6 student-athlete a professional-sports-services contract or an
7 endorsement contract.

8 (2) "Athlete agent" means an individual who enters into an agency
9 contract with a student-athlete or, directly or indirectly, recruits or
10 solicits a student-athlete to enter into an agency contract. The term
11 includes an individual who represents to the public that the individual
12 is an athlete agent. The term does not include a spouse, parent, sibling,
13 grandparent or guardian of the student-athlete or an individual acting

14 solely on behalf of a professional sports team or professional sports
15 organization.

16 (3) "Athletic director" means an individual responsible for
17 administering the overall athletic program of an educational
18 institution or, if an educational institution has separately administered
19 athletic programs for male students and female students, the athletic
20 program for males or the athletic program for females, as appropriate.

21 (4) "Contact" means a communication, direct or indirect, between an
22 athlete agent and a student-athlete, to recruit or solicit the student-
23 athlete to enter into an agency contract.

24 (5) "Endorsement contract" means an agreement under which a
25 student-athlete is employed or receives consideration to use on behalf
26 of the other party to the contract any value that the student-athlete
27 may have because of publicity, reputation, following or fame obtained
28 because of athletic ability or performance.

29 (6) "Intercollegiate sport" means a sport played at the collegiate level
30 for which eligibility requirements for participation by a student-athlete
31 are established by a national association for the promotion or
32 regulation of collegiate athletics.

33 (7) "Person" means an individual, corporation, business trust, estate,
34 trust, partnership, limited liability company, association, joint venture,
35 government or governmental subdivision, agency or instrumentality,
36 public corporation or any other legal or commercial entity.

37 (8) "Professional-sports-services contract" means an agreement
38 under which an individual is employed, or agrees to render services,
39 as a player on a professional sports team, with a professional sports
40 organization or as a professional athlete.

41 (9) "Record" means information that is inscribed on a tangible
42 medium or that is stored in an electronic or other medium and is
43 retrievable in perceivable form.

44 (10) "Registration" means registration as an athlete agent pursuant
45 to this act.

46 (11) "State" means a state of the United States, the District of
47 Columbia, Puerto Rico, the United States Virgin Islands, or any
48 territory or insular possession subject to the jurisdiction of the United
49 States.

50 (12) "Student-athlete" means an individual who engages in, is
51 eligible to engage in, or may be eligible in the future to engage in, any
52 intercollegiate sport. If an individual is permanently ineligible to
53 participate in a particular intercollegiate sport, the individual is not a
54 student-athlete for purposes of that sport.

55 Sec. 3. (NEW) (*Effective January 1, 2004*) By acting as an athlete agent
56 in this state, a nonresident individual appoints the Secretary of the
57 State as the individual's agent for service of process in any civil action
58 in this state related to the individual's acting as an athlete agent in this
59 state.

60 Sec. 4. (NEW) (*Effective January 1, 2004*) (a) Except as provided in
61 subsection (b) of this section, an individual may not act as an athlete
62 agent in this state without holding a certificate of registration under
63 section 6 or 8 of this act.

64 (b) Before being issued a certificate of registration, an individual
65 may act as an athlete agent in this state for all purposes except signing
66 an agency contract, if:

67 (1) A student-athlete or another person acting on behalf of the
68 student-athlete initiates communication with the individual; and

69 (2) Not later than seven days after an initial act as an athlete agent,
70 the individual submits an application for registration to the
71 Commissioner of Consumer Protection as an athlete agent in this state.

72 (c) An agency contract resulting from conduct in violation of this
73 section is void and the athlete agent shall return any consideration

74 received under the contract.

75 Sec. 5. (NEW) (*Effective January 1, 2004*) (a) An applicant for
76 registration shall register with the Commissioner of Consumer
77 Protection in a form prescribed by the commissioner. The application
78 shall be in the name of an individual and, except as provided in
79 subsection (b) of this section, shall be signed by the applicant under
80 penalty of false statement and state or contain:

81 (1) The name of the applicant and the address of the applicant's
82 principal place of business;

83 (2) The name of the applicant's business or employer, if applicable;

84 (3) Any business or occupation engaged in by the applicant for the
85 five years next preceding the date of filing of the application;

86 (4) A description of the applicant's:

87 (A) Formal training as an athlete agent;

88 (B) Practical experience as an athlete agent; and

89 (C) Educational background relating to the applicant's activities as
90 an athlete agent;

91 (5) The names and addresses of three individuals not related to the
92 applicant who are willing to serve as references;

93 (6) The name, sport and last-known team of each individual for
94 whom the applicant acted as an athlete agent during the five years
95 next preceding the date of submission of the application;

96 (7) The names and addresses of all persons who are:

97 (A) With respect to the athlete agent's business if it is not a
98 corporation, the partners, members, officers, managers, associates or
99 profit-sharers of the business; and

100 (B) With respect to a corporation employing the athlete agent, the

101 officers, directors and any shareholder of the corporation having a five
102 per cent or greater interest in such corporation;

103 (8) Whether the applicant or any person named pursuant to
104 subdivision (7) of this subsection has been convicted of a crime that, if
105 committed in this state, would be a crime involving moral turpitude or
106 a felony, and identify the crime;

107 (9) Whether there has been any administrative or judicial
108 determination that the applicant or any person named pursuant to
109 subdivision (7) of this subsection has made a false, misleading,
110 deceptive or fraudulent representation;

111 (10) Any instance in which the conduct of the applicant or any
112 person named pursuant to subdivision (7) of this subsection resulted in
113 the imposition of a sanction, suspension or declaration of ineligibility
114 to participate in an interscholastic or intercollegiate athletic event on a
115 student-athlete or educational institution;

116 (11) Any sanction, suspension or disciplinary action taken against
117 the applicant or any person named pursuant to subdivision (7) of this
118 subsection arising out of occupational or professional conduct; and

119 (12) Whether there has been any denial of an application for,
120 suspension or revocation of, or refusal to renew, the registration or
121 licensure of the applicant or any person named pursuant to
122 subdivision (7) of this subsection as an athlete agent in any state.

123 (b) An individual who files an application for, and holds a certificate
124 of, registration or licensure as an athlete agent in another state, may
125 submit a copy of the application and certificate in lieu of submitting an
126 application in the form prescribed pursuant to subsection (a) of this
127 section. The commissioner shall accept the application and the
128 certificate from the other state as an application for registration in this
129 state if the application to the other state:

130 (1) Was submitted in the other state within six months next
131 preceding the submission of the application in this state and the

132 applicant certifies that the information contained in the application is
133 current;

134 (2) Contains information substantially similar to or more
135 comprehensive than that required in an application submitted in this
136 state; and

137 (3) Was signed by the applicant under penalty of perjury.

138 Sec. 6. (NEW) (*Effective January 1, 2004*) (a) Except as provided in
139 subsection (b) of this section, the Commissioner of Consumer
140 Protection shall issue a certificate of registration to an individual who
141 complies with subsection (a) of section 5 of this act or whose
142 application has been accepted under subsection (b) of section 5 of this
143 act.

144 (b) The commissioner may refuse to issue a certificate of registration
145 if the commissioner determines that the applicant has engaged in
146 conduct that has a significant adverse effect on the applicant's fitness
147 to act as an athlete agent. In making the determination, the
148 commissioner may consider whether the applicant has:

149 (1) Been convicted of a crime that, if committed in this state, would
150 be a crime involving moral turpitude or a felony;

151 (2) Made a materially false, misleading, deceptive or fraudulent
152 representation in the application or as an athlete agent;

153 (3) Engaged in conduct that would disqualify the applicant from
154 serving in a fiduciary capacity;

155 (4) Engaged in conduct prohibited by section 14 of this act;

156 (5) Had a registration or licensure as an athlete agent suspended,
157 revoked or denied or been refused renewal of registration or licensure
158 as an athlete agent in any state;

159 (6) Engaged in conduct the consequence of which was that a
160 sanction, suspension or declaration of ineligibility to participate in an

161 interscholastic or intercollegiate athletic event was imposed on a
162 student-athlete or educational institution; or

163 (7) Engaged in conduct that significantly adversely reflects on the
164 applicant's credibility, honesty or integrity.

165 (c) In making a determination under subsection (b) of this section,
166 the commissioner shall consider:

167 (1) How recently the conduct occurred;

168 (2) The nature of the conduct and the context in which it occurred;
169 and

170 (3) Any other relevant conduct of the applicant.

171 (d) An athlete agent may apply to renew a registration by filing an
172 application for renewal in a form prescribed by the commissioner. The
173 application for renewal shall be signed by the applicant under penalty
174 of false statement and shall contain current information on all matters
175 required in an original registration.

176 (e) An individual who has filed an application for renewal of
177 registration or licensure in another state, in lieu of submitting an
178 application for renewal in the form prescribed pursuant to subsection
179 (d) of this section, may file a copy of the application for renewal and a
180 valid certificate of registration or licensure from the other state. The
181 commissioner shall accept the application for renewal from the other
182 state as an application for renewal in this state if the application to the
183 other state:

184 (1) Was submitted in the other state within six months next
185 preceding the filing in this state and the applicant certifies the
186 information contained in the application for renewal is current;

187 (2) Contains information substantially similar to or more
188 comprehensive than that required in an application for renewal
189 submitted in this state; and

190 (3) Was signed by the applicant under penalty of perjury.

191 (f) A certificate of registration or a renewal of a registration is valid
192 for two years.

193 Sec. 7. (NEW) (*Effective January 1, 2004*) (a) The commissioner may
194 suspend, revoke or refuse to renew a registration for conduct that
195 would have justified denial of registration under subsection (b) of
196 section 6 of this act.

197 (b) The commissioner may deny, suspend, revoke or refuse to renew
198 a certificate of registration only after proper notice and an opportunity
199 for a hearing in accordance with chapter 54 of the general statutes.

200 Sec. 8. (NEW) (*Effective January 1, 2004*) The commissioner may issue
201 a temporary certificate of registration while an application for
202 registration or renewal of registration is pending.

203 Sec. 9. (NEW) (*Effective January 1, 2004*) An application for
204 registration or renewal of registration shall be accompanied by a fee in
205 the following amount:

206 (1) ___ dollars for an initial application for registration;

207 (2) ___ dollars for an application for registration based upon a
208 certificate of registration or licensure issued by another state;

209 (3) ___ dollars for an application for renewal of registration; or

210 (4) ___ dollars for an application for renewal of registration based
211 upon an application for renewal of registration or licensure submitted
212 in another state.

213 Sec. 10. (NEW) (*Effective January 1, 2004*) (a) An agency contract shall
214 be in a record, signed or otherwise authenticated by the parties.

215 (b) An agency contract shall state or contain:

216 (1) The amount and method of calculating the consideration to be

217 paid by the student-athlete for services to be provided by the athlete
218 agent under the contract and any other consideration the athlete agent
219 has received or will receive from any other source for entering into the
220 contract or for providing the services;

221 (2) The name of any person not listed in the application for
222 registration or renewal of registration who will be compensated
223 because the student-athlete signed the agency contract;

224 (3) A description of any expenses that the student-athlete agrees to
225 reimburse;

226 (4) A description of the services to be provided to the student-
227 athlete;

228 (5) The duration of the contract; and

229 (6) The date of execution.

230 (c) An agency contract shall contain, in close proximity to the
231 signature of the student-athlete, a conspicuous notice in boldface type
232 in capital letters stating:

233 **WARNING TO STUDENT-ATHLETE**

234 **IF YOU SIGN THIS CONTRACT:**

235 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A**
236 **STUDENT-ATHLETE IN YOUR SPORT;**

237 (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, NO LATER THAN**
238 **72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU**
239 **AND YOUR ATHLETE AGENT SHALL NOTIFY YOUR ATHLETIC**
240 **DIRECTOR; AND**

241 (3) **YOU MAY CANCEL THIS CONTRACT NO LATER THAN 14**
242 **DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT**
243 **MAY NOT REINSTATE YOUR ELIGIBILITY.**

244 (d) An agency contract that does not conform to this section is
245 voidable by the student-athlete. If a student-athlete voids an agency
246 contract, the student-athlete is not required to pay any consideration
247 under the contract or to return any consideration received from the
248 athlete agent to induce the student-athlete to enter into the contract.

249 (e) The athlete agent shall give a record of the signed or otherwise
250 authenticated agency contract to the student-athlete at the time of
251 execution.

252 Sec. 11. (NEW) (*Effective January 1, 2004*) (a) No later than seventy-
253 two hours after entering into an agency contract or before the next
254 scheduled athletic event in which the student-athlete may participate,
255 whichever occurs first, the athlete agent shall give notice in a record of
256 the existence of the contract to the athletic director of the educational
257 institution at which the student-athlete is enrolled or the athlete agent
258 has reasonable grounds to believe the student-athlete intends to enroll.

259 (b) No later than seventy-two hours after entering into an agency
260 contract or before the next athletic event in which the student-athlete
261 may participate, whichever occurs first, the student-athlete shall
262 inform the athletic director of the educational institution at which the
263 student-athlete is enrolled that he or she has entered into an agency
264 contract.

265 Sec. 12. (NEW) (*Effective January 1, 2004*) (a) A student-athlete may
266 cancel an agency contract by giving notice of the cancellation to the
267 athlete agent in a record no later than fourteen days after the contract
268 is signed.

269 (b) A student-athlete may not waive the right to cancel an agency
270 contract.

271 (c) If a student-athlete cancels an agency contract, the student-
272 athlete is not required to pay any consideration under the contract or
273 to return any consideration received from the athlete agent to induce
274 the student-athlete to enter into the contract.

275 Sec. 13. (NEW) (*Effective January 1, 2004*) (a) An athlete agent shall
276 retain the following records for a period of five years:

277 (1) The name and address of each individual represented by the
278 athlete agent;

279 (2) Any agency contract entered into by the athlete agent; and

280 (3) Any direct costs incurred by the athlete agent in the recruitment
281 or solicitation of a student-athlete to enter into an agency contract.

282 (b) Records required by subsection (a) of this section to be retained
283 shall be open to inspection by the Commissioner of Consumer
284 Protection.

285 Sec. 14. (NEW) (*Effective January 1, 2004*) (a) An athlete agent, with
286 the intent to induce a student-athlete to enter into an agency contract,
287 shall not:

288 (1) Give any materially false or misleading information or make a
289 materially false promise or representation;

290 (2) Furnish anything of value to a student-athlete before the student-
291 athlete enters into the agency contract; or

292 (3) Furnish anything of value to any individual other than the
293 student-athlete or another registered athlete agent.

294 (b) An athlete agent shall not intentionally:

295 (1) Initiate contact with a student-athlete unless registered under
296 section 6 or 8 of this act;

297 (2) Refuse or fail to retain or permit inspection of the records
298 required to be retained by section 13 of this act;

299 (3) Fail to register when required by section 4 of this act;

300 (4) Provide materially false or misleading information in an
301 application for registration or renewal of registration;

302 (5) Predate or postdate an agency contract; or

303 (6) Fail to notify a student-athlete before the student-athlete signs or
304 otherwise authenticates an agency contract for a particular sport that
305 the signing or authentication may make the student-athlete ineligible
306 to participate as a student-athlete in that sport.

307 Sec. 15. (NEW) (*Effective January 1, 2004*) An athlete agent who
308 violates section 14 of this act is guilty of a class B misdemeanor.

309 Sec. 16. (NEW) (*Effective January 1, 2004*) (a) An educational
310 institution has a right of action against an athlete agent or a former
311 student-athlete for damages caused by a violation of this act. In an
312 action under this section, the court may award to the prevailing party
313 costs and reasonable attorney's fees.

314 (b) Damages of an educational institution under subsection (a) of
315 this section include losses and expenses incurred because, as a result of
316 the conduct of an athlete agent or former student-athlete, the
317 educational institution was injured by a violation of this act or was
318 penalized, disqualified or suspended from participation in athletics by
319 a national association for the promotion and regulation of athletics, by
320 an athletic conference or by reasonable self-imposed disciplinary
321 action taken to mitigate sanctions likely to be imposed by such an
322 organization.

323 (c) A right of action under this section does not accrue until the
324 educational institution discovers or by the exercise of reasonable
325 diligence should have discovered the violation by the athlete agent or
326 former student-athlete.

327 (d) Any liability of the athlete agent or the former student-athlete
328 under this section is several and not joint.

329 (e) This act does not restrict rights, remedies or defenses of any
330 person under law or equity.

331 Sec. 17. (NEW) (*Effective January 1, 2004*) The Commissioner of

332 Consumer Protection may assess a civil penalty against an athlete
333 agent not to exceed ____ dollars for a violation of this act.

334 Sec. 18. (NEW) (Effective January 1, 2004) In applying and construing
335 this act, consideration shall be given to the need to promote uniformity
336 of the law with respect to its subject matter among states that enact it.

337 Sec. 19. (NEW) (Effective January 1, 2004) The provisions of this act
338 governing the legal effect, validity or enforceability of electronic
339 records or signatures, and of contracts formed or performed with the
340 use of such records or signatures conform to the requirements of the
341 Electronic Signatures in Global and National Commerce Act, 15 USC
342 7001 et. seq.

343 Sec. 20. (Effective January 1, 2004) Sections 20-553 to 20-558, inclusive,
344 of the general statutes are repealed.

This act shall take effect as follows:	
Section 1	January 1, 2004
Sec. 2	January 1, 2004
Sec. 3	January 1, 2004
Sec. 4	January 1, 2004
Sec. 5	January 1, 2004
Sec. 6	January 1, 2004
Sec. 7	January 1, 2004
Sec. 8	January 1, 2004
Sec. 9	January 1, 2004
Sec. 10	January 1, 2004
Sec. 11	January 1, 2004
Sec. 12	January 1, 2004
Sec. 13	January 1, 2004
Sec. 14	January 1, 2004
Sec. 15	January 1, 2004
Sec. 16	January 1, 2004
Sec. 17	January 1, 2004
Sec. 18	January 1, 2004
Sec. 19	January 1, 2004
Sec. 20	January 1, 2004

Statement of Legislative Commissioners:

In subsection (b) of section 13, "commissioner" was changed to "Commissioner of Consumer Protection" and in subsection (b) of section 14, a reference to "section 6 or 8 of" this act was added for accuracy.

GL *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Consumer Protection, Dept.	GF - Potential Revenue Gain	Indeterminate	Indeterminate
Secretary of the State	Commercial Recording Account - Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill makes many changes to current law. For instance, it extends the registration period from one to two years, eliminates the requirement that the agent post a \$100,000 surety bond as a condition of registration, changes the reasons of refusal the Department of Consumer Protection (DCP) can use when issuing or renewing a registration, and for suspending or revoking one, and eliminates DCP’s authority to adopt regulations regarding athlete agents. A nonresident athlete agent appoints the Secretary of the State to represent the individual in any civil action in the state of Connecticut.

This bill would presumably make it easier for athlete agents to register in this state. Current law imposes a \$100 annual fee for an application or renewal. However, since the bill establishes various fees but does not set amounts, the potential revenue gain is at present indeterminate. To date, no athlete agent registration has ever been issued.

DCP anticipates increased registrations and a workload increase which can be performed by staff without the need for an additional

appropriation.

The Commercial Recording Division within the Secretary of the State (SOTS) files and maintains legally required records showing the formation of and fundamental changes to corporations, limited liability companies, limited liability partnerships, limited partnerships and other businesses. The Commercial Recording Division (CRD) account is a restricted non-lapsing account within the General Fund. Corporate filing fees are deposited into the CRD account until sufficient funds are available to cover the operating costs of the CRD. The Secretary of the State's CRD budget for FY 03 is \$4.5 million. Any revenues collected above the \$4.5 million are deposited in the General Fund. Revenues have exceeded the CRD budget since its establishment. The Secretary of the State charges a \$25 fee to be appointed as an agent of service. This provision would result in a minimal revenue gain.

OLR Bill Analysis

HB 5011

AN ACT ADOPTING THE UNIFORM ATHLETE AGENTS ACT

SUMMARY:

This bill make significant changes to current law on athlete-agents. Among other things, it:

1. expands the types of agency contracts that are subject to the provisions by including agreements authorizing a person to negotiate endorsement contracts;
2. makes a number of changes to the reasons the Department of Consumer Protection (DCP) can refuse to issue or renew a registration or suspend or revoke one;
3. eliminates the requirement that the agent post a \$100,000 surety bond as a condition of registration;
4. extends the registration period from one to two years;
5. adds a safe harbor provision when an athlete initiates contact with an agent who is not registered (the agent must register within seven days after the initial contact);
6. alters the registration application requirements and adds provisions on registration and renewal for agents who are registered in other states;
7. alters the contract requirements but applies these requirements only to agency contracts (unlike current law, the bill does not address financial services contracts which are agreements where an athlete authorizes an athlete agent to provide financial services including making and carrying out investment and other financial decisions);

8. increases from six to 14 days the time an athlete has to cancel an agency contract;
9. alters the provisions on prohibited conduct and no longer prohibits athlete agents from entering agency contracts with student athletes before their collegiate eligibility expires;
10. creates a cause of action by an educational institution against an agent or former student-athlete for damages caused by violations of the bill;
11. does not specifically allow restitution or make violations an unfair trade practice, as under current law;
12. alters the record keeping requirements imposed on agents and reduces, from seven to five years, the time the agent must keep records;
13. eliminates certain rules and prohibitions regarding interviewing athletes; and
14. eliminates DCP's authority to adopt regulations regarding athlete agents.

EFFECTIVE DATE: January 1, 2004

ATHLETE

Similar to current law, the bill defines "student-athlete" as someone who engages in, is eligible to engage in, or may be eligible to engage in, an intercollegiate sport. But unlike current law, the bill does not limit its scope to athletes who have not signed a contract with a professional sports team for employment or for future athletic services

The bill defines intercollegiate sport as a sport played at the collegiate level for which eligibility requirements are set by a national association for the promotion of athletics (such as the NCAA).

AGENT

Under current law, an "athlete agent" is a person who (1) for compensation, recruits or solicits athletes to sign an agent contract,

financial services contract, or professional sports services contract or (2) for a fee, procures or offers, promises, or attempts to obtain employment for an athlete with a professional sports team or as a professional athlete. The bill instead defines “athlete agent” as an individual who (1) enters an agency contract with a student-athlete and (2) solicits a student athlete to enter such a contract. Unlike current law, the bill includes someone who represents to the public that he is an agent.

Under current law, the term does not include the athlete’s spouse, parent, or sibling. The bill also excludes an athlete’s grandparents and guardians and someone acting on behalf of a sports team.

The bill allows only individuals to register as agents, thereby disqualifying corporations and other legal entities from registering.

AGENCY CONTRACT

The bill defines “agency contract,” similar to current law, as an agreement in which a student-athlete authorizes a person to negotiate or solicit a professional sports services contract or an endorsement contract. But the bill makes endorsement contracts (defined as agreements under which a student-athlete receives consideration to use his publicity value on behalf of someone else) a type of agency contract subject to its provisions.

As under current law, a “professional services contract” is an agreement under which an athlete is employed by or agrees to give services as a player on a team or as a professional athlete.

REGISTRATION

Both the bill and current law require athlete-agents to register. The bill extends the registration period from one to two years. Current law imposes a \$100 annual fee for an application or renewal. The bill establishes separate fees, but does not set the amounts, for (1) initial applications, (2) applications based on registration in another state, (3) renewal applications, and (4) renewal applications based on a renewal application in another state.

Safe Harbor Provision

The bill adds a provision that allows an individual to act as an agent before registration for all purposes except signing an agency contract if (1) the student-athlete or someone on his behalf contacts the agent and (2) the individual files an agent registration application with DCP within seven days of the initial act taken as an agent. A contract signed in violation of this provision is void. The bill requires the athlete to return any consideration received under such a contract.

The bill defines “contact” as a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter an agency contract.

Application Requirements

The bill requires an applicant to provide most of the same information as required currently under regulations but it adds some requirements and eliminates others. As under current law, the application must provide: (1) the applicant’s name and address; (2) his business or employer, if applicable; (3) occupations engaged in for the past five years; and (4) a description of formal training, practical experience, and education.

Current regulations require applicants to provide the names and addresses of all who have a financial interest in the agent’s business. If the applicant is a corporation, education and experience information must be provided about all who act on the corporation’s behalf as an athlete agent. Instead, the bill specifies that the applicant must provide the names and addresses of anyone who is (1) a partner, member, officer, manager, associate, or profit-sharer in the agent’s business or (2) an officer, director, or shareholder with at least 5% of the shares in a corporation employing the agent. An applicant must also state whether he, or anyone named under this requirement (1) was convicted of a crime that would be, in this state, a crime of moral turpitude or a felony and identify the crime; (2) was found to have made a false, misleading, deceptive, or fraudulent representation in an administrative or judicial proceeding; (3) did something that resulted in an athlete’s sanction, suspension, or declaration of ineligibility for intercollegiate sports; (4) was the subject of a sanction, suspension, or disciplinary action arising out of their professional conduct; or (5) was denied an application.

The bill adds requirements that the applicant provide the (1) names

and addresses of three references unrelated to the applicant and (2) the name, sport, and last-known team of each individual for whom the applicant acted as an agent in the past five years.

The bill eliminates a requirement that DCP adopt regulations to establish bond requirements for athlete agents (the regulations require a \$100,000 surety bond).

Regulations also allow DCP to reserve the right, as a condition of registration, to approve the form of an agency contract, financial services contract, or professional services contract. The bill eliminates this explicit authority.

Registration Renewal

As under current law, the athlete agent must submit a written renewal application on a form provided by DCP with the same information required for the original application. The bill specifies that the athlete agent signs the form under penalty of false statement. (This carries a criminal penalty of up to a \$2,000 fine, up to one year in prison, or both.)

Registered in Other States

The bill allows an applicant who is already registered in another state to submit a copy of his application to, and the certificate issued by, the other state instead of completing the Connecticut application. The bill requires the DCP commissioner to accept the application if (1) it was submitted to the other state within the last six months, (2) the applicant certifies that the information in it is correct, (3) the information is substantially similar or more comprehensive than what this state requires, and (4) it was signed by the applicant under penalty of perjury.

The bill also includes a similar provision on registration renewal based on a valid registration in another state.

Temporary Registration

The bill allows the commissioner to issue a temporary registration while an application for registration or renewal is pending.

**REFUSAL TO ISSUE OR RENEW REGISTRATION, SUSPENSION,
AND REVOCATION**

The bill makes a number of changes to the reasons DCP can refuse to issue or renew a registration or suspend or revoke one. The bill uses a broad standard about conduct that has a significant adverse effect on the fitness for the job and then includes a list of considerations (some of which are similar to the criteria in the regulations).

The bill allows the commissioner to refuse to issue or renew a registration or suspend or revoke one if he finds the applicant engaged in conduct that has a significant adverse effect on his fitness to act as an athlete agent. The commissioner can consider whether the applicant:

1. was convicted of a crime that, if committed in this state, would be a felony or a crime of moral turpitude;
2. made a materially false, misleading, deceptive, or fraudulent representation as an athlete agent or in his application;
3. engaged in conduct that would disqualify him from being a fiduciary;
4. engaged in conduct the bill prohibits to induce an athlete to enter an agency contract;
5. had an athlete agent registration suspended, revoked, denied, or renewal refused in any state;
6. engaged in conduct that resulted in a student athlete's or educational institution's sanction, suspension, or declaration of ineligibility for participation in interscholastic or intercollegiate athletic events; or
7. engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

The commissioner must consider (1) how recently the conduct occurred, (2) the nature of the conduct and its context, and (3) any other relevant conduct.

Unlike current law, the bill requires notice and hearing under the administrative procedure act before suspending, revoking, or refusing to renew a registration. But the bill eliminates explicit authority for revoking a registration for conviction of a violation of the athlete agent laws, summary suspension after a criminal violation, and a one-year waiting period before reapplying for a registration after a revocation or judgment affirming it.

Under current law, the commissioner can refuse to issue or renew a registration, suspend, or revoke a registration for violating any of the statutory provisions or the regulations. DCP can take one of these actions if the agent, its employees, agents, or officers:

1. is not lawfully engaged in business in the state;
2. engaged in conduct likely to mislead, deceive, or defraud the public or the commissioner;
3. engaged in untruthful or misleading advertising;
4. made a material misrepresentation;
5. made a false promise of a type likely to influence, persuade, or induce an athlete to enter a contract;
6. failed to account within a reasonable time for or remit funds that belong to client athletes;
7. was convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or similar offenses in this state or elsewhere;
8. engaged in dishonest, fraudulent, or improper dealings;
9. violated or failed to comply with the regulations;
10. acted as agent after his bond was cancelled;
11. commingled funds of others in an escrow or trustee account;
12. contacted an athlete directly or indirectly before being registered;

13. entered an agreement that offered something of value to an employee of a higher education institution in this state where the athlete is enrolled or a member of his family or a friend likely to influence the athlete's decisions, in return for referring a client;
14. divided fees or received compensation from a potential employer of an athlete that he has a contract with;
15. committed an unfair trade practice;
16. collected a fee over 10% of the direct and indirect compensation an athlete receives under a contract in a calendar year; or
17. sold or transferred an interest in or a right to profits from working as an agent in this state to someone who is not registered in this state.

The regulations also allow DCP to refuse to issue or renew a registration if the applicant lacks formal training or practical experience in (1) contracts and their negotiation, (2) complaint resolution, (3) arbitration, or (4) civil resolution of contract disputes. For business entities, DCP must review their employees and agents. DCP can consider other relevant training, education, and experience for these requirements.

CONTRACTS

Form

The bill allows agency contracts to be in records (inscribed on a tangible medium or stored in an electronic or other medium that is retrievable in perceivable form), while current law requires them to be written. The bill does not require the use of plain language which current regulations do.

The bill only applies to agency contracts, unlike current law which also applies to financial services contracts and professional services contracts.

Contents

As under current law, an agency contract must contain (1) information

on amounts the student athlete pays the athlete agent for services, (2) a description of services provided, and (3) the date of execution.

The bill adds that the contract must disclose (1) anything else the agent has or will receive from other sources for entering the contract or providing services, (2) unregistered individuals who will receive compensation, (3) expenses the athlete must pay, and (4) the contract's duration.

The bill requires the agent to give a record of the agency contract to the student-athlete at the time of execution.

The bill eliminates the requirement that the agent impose fees only according to the schedule in the contract and a provision allowing changes to the schedule effective seven days after he files with DCP a copy of the contract with the changes.

Contract Warning/Disclaimer

The bill does not apply its requirements to financial services contracts, as current law does. As under current regulations, the bill requires an agency contract to contain a conspicuous notice in boldface capital letters about (1) the possibility of losing eligibility as a student-athlete and (2) the right to cancel the contract (the bill adds that this must state that canceling might not reinstate eligibility).

The bill adds that the notice must include the requirement to notify an athletic director (described below). The bill eliminates the requirement that the notice state that (1) registration does not imply approval of the agent or contract and (2) the athlete should read the contract.

The bill specifies that the notice must be placed near the student-athlete's signature.

Non-Conforming Agency Contracts

The bill allows an athlete to void an agency contract that does not satisfy the rules described above and he is not required to pay anything under the contract or to return anything received from the agent to induce the contract.

Notification to Athletic Director

Current regulations require the agent to give a copy of an agent contract, financial services contract, or professional services contract to the athletic director of a higher education institution in this state where the athlete is enrolled within three business days of signing. The bill instead:

1. applies only to agency contracts;
2. requires the agent to give notice in a record and the athlete to inform his athletic director;
3. requires the agent to give a record to an athletic director of an educational institution where he has reasonable grounds to believe the athlete intends to enroll, as well as an athletic director where the athlete is enrolled; and
4. requires notice within 72 hours or before the athlete participates in an athletic event, whichever is less, which will be less than the three business days required under the regulations in some circumstances.

The bill defines “athletic director” as someone responsible for administering the overall athletic program, whether the responsibilities are for both sexes or for a single sex.

Right to Cancel Agency Contract

The bill increases, from six to 14 days, the time an athlete has to cancel an agency contract. The bill requires the student-athlete to cancel by giving notice in a record. The bill also provides that (1) the student-athlete cannot waive this right and (2) if he cancels the contract, he is not required to pay anything under the contract or return anything received from the athlete agent to induce the contract.

RECORD RETENTION

The bill reduces, from seven to five years, the time that an agent must keep records. As under current law, the agent must keep (1) the name and address of individuals represented and (2) agency contracts entered into. The bill also requires the agent to keep records of costs in recruiting or soliciting athletes instead of information on fees received,

services provided, and travel and entertainment expenses. The bill makes these records open to inspection by DCP, while current law requires the agent to provide DCP with the information in the records on written request.

PROHIBITED CONDUCT

The bill makes a number of changes to the types of conduct that athlete agents are prohibited from engaging in.

The bill eliminates a prohibition against (1) entering oral or written agency contracts or professional sport services contracts with an athlete before his collegiate eligibility expires and (2) dividing fees with or receiving compensation from a professional sports league or franchise or its representatives or employees.

Current law prohibits (1) entering an oral or written agreement offering anything of value to an employee of an institution of higher education in the state for referring an athlete and (2) giving, offering, or promising anything of value to an athlete, his guardian, or member of his immediate family before his college eligibility expires. The bill instead prohibits an athlete agent from furnishing anything of value to an individual other than the student-athlete or another registered athlete-agent, with intent to induce the student-athlete to enter a contract.

Both the bill and current law prohibit an agent from giving materially false or misleading information or making materially false promises or representations. The bill specifies that the athlete agent must not do so intending to induce a student-athlete to enter a contract.

The bill adds provisions prohibiting an athlete agent from intentionally (1) initiating contact with a student-athlete unless he is registered, (2) refusing or failing to retain or permit inspection of records that he must keep, (3) failing to register, (4) providing materially false or misleading information in an application for registration or renewal, (5) pre- or post-dating an agency contract, and (6) failing to notify a student-athlete before he signs or authenticates an agency contract for a particular sport that it may make him ineligible to participate as a student-athlete in that sport.

PENALTIES

As under current law, a violation of the athlete-agent laws is a class B misdemeanor, punishable by up to six months in prison, a fine of up to \$1,000, or both.

As under current law, the bill allows the commissioner to assess a civil penalty against an athlete agent. But the bill does not specify a maximum amount, while current law allows a penalty of up to \$1,000 plus profits derived from the violation minus restitution paid.

The bill eliminates provisions allowing restitution and making violations an unfair trade practice, as current law provides. The bill also does not include a provision in current law that the commissioner can only take these actions after notice and a hearing under the administrative procedures act.

CAUSE OF ACTION BY EDUCATIONAL INSTITUTION

The bill gives an educational institution the right to sue an athlete agent or former student-athlete for damages caused by violations of the bill. It allows the court to award costs and reasonable attorney's fees to the prevailing party. Damages include losses and expenses incurred because of (1) injuries from the violation or (2) penalties, disqualification, or suspension from participation in athletics by (a) a national association for promoting and regulating athletics, (b) an athletic conference, or (c) a reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by an organization. The right to sue arises when the educational institution discovers, or by reasonable diligence should have discovered, the violation (but the bill does not set a limitation on the time to bring a suit). The liability of the athlete agent and student-athlete is several and not joint. The bill does not restrict rights, remedies, or defenses.

SERVICE OF PROCESS

Under the bill, a nonresident acting as an athlete agent in this state appoints the secretary of the state as his agent for service of process in a civil action in this state related to his actions as an athlete agent here

INTERVIEWS

The bill eliminates the requirements relating to interviews between

athletes and agents. Under current law, the time, place, and duration of an interview between an athlete and agent must follow any policy that the school where the athlete is enrolled adopts or follows. An interview is a face-to-face meeting to recruit or solicit the athlete for (1) an agent contract, financial services contract, or professional services contract or (2) employment with a professional sports team or as a professional athlete

REGULATIONS

The bill eliminates DCP's explicit authority to adopt regulations to set requirements for registration and regulating athletes including (1) agent qualifications and registration procedures, (2) bond requirements, (3) requirements for contracts including fee schedules, (4) limits and conditions on communicating with athletes such as advertising and interviewing, (5) guidelines for registration suspension and revocation, (6) limits on fees and compensation such as the transfer of interests or rights to participate in profits made by agents, and (7) other reasonable regulations the commissioner finds necessary or desirable.

OTHER PROVISIONS

The bill specifies that in applying and construing its provisions, consideration must be given to the need to promote uniformity.

It also specifies that the legal effect, validity, or enforceability of electronic records or signatures and of contracts formed or performed with records and signatures conforms to the requirements of the federal Electronic Signatures in Global and National Commerce Act. This federal act applies to transactions in interstate and foreign commerce. The act validates the use of electronic records and electronic signatures in transactions but does not require anyone to agree to use or accept electronic records or signatures.

The bill also deletes provisions (1) in regulations that a business entity that acts as an athlete agent is not relieved of responsibility for the conduct of its agents, employees, or officers and the agents, employees, and officers are not relieved of responsibility by reason of their relationship with the business and (2) in statute that nothing requires an athlete to use an agent or limits his ability to contract for services outside the state.

COMMENT

The bill establishes application fees but does not set their amounts. It also allows DCP to assess a civil penalty against an agent for violations but it does not specify a maximum penalty.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report
Yea 17 Nay 0