



General Assembly

February Session, 2004

Raised Bill No. 487

LCO No. 1403

01403_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

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, 2005*) Sections 1 to 20,
2 inclusive, of this act may be cited as the "Uniform Athlete Agents Act".

3 Sec. 2. (NEW) (*Effective January 1, 2005*) As used in sections 1 to 20,
4 inclusive, of this act:

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

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

16 organization.

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

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

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

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

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

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

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

45 (10) "Registration" means registration as an athlete agent pursuant
46 to sections 1 to 20, inclusive, of this act.

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

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

56 Sec. 3. (NEW) (*Effective January 1, 2005*) By acting as an athlete agent
57 in this state, a nonresident individual appoints the Secretary of the
58 State as the individual's agent for service of process in any civil action
59 in this state related to the individual's acting as an athlete agent in this
60 state.

61 Sec. 4. (NEW) (*Effective January 1, 2005*) (a) Except as otherwise
62 provided in subsection (b) of this section, an individual may not act as
63 an athlete agent in this state without holding a certificate of
64 registration under section 6 or 8 of this act.

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

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

70 (2) Within seven days after an initial act as an athlete agent, the
71 individual submits an application for registration as an athlete agent in
72 this state.

73 (c) An agency contract resulting from conduct in violation of this

74 section is void and the athlete agent shall return any consideration
75 received under the contract.

76 Sec. 5. (NEW) (*Effective January 1, 2005*) (a) An applicant for
77 registration shall submit an application for registration to the
78 Commissioner of Agriculture and Consumer Protection in a form
79 prescribed by the commissioner. The application shall be in the name
80 of an individual and, except as provided in subsection (b) of this
81 section, signed or otherwise authenticated by the applicant under
82 penalty of perjury and state or contain:

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

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

86 (3) Any business or occupation engaged in by the applicant for the
87 five years next preceding the date of submission of the application;

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

89 (A) Formal training as an athlete agent;

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

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

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

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

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

99 (A) With respect to the athlete agent's business if it is not a

100 corporation, the partners, members, officers, managers, associates or
101 profit-sharers of the business; and

102 (B) With respect to a corporation employing the athlete agent, the
103 officers, directors and any shareholder of the corporation having an
104 interest of five per cent or greater;

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

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

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

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

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

125 (b) An individual who has submitted an application for, and holds a
126 certificate of, registration or licensure as an athlete agent in another
127 state, may submit a copy of the application and certificate in lieu of
128 submitting an application in the form prescribed pursuant to
129 subsection (a) of this section. The Commissioner of Agriculture and

130 Consumer Protection shall accept the application and the certificate
131 from the other state as an application for registration in this state if the
132 application to the other state:

133 (1) Was submitted in the other state within six months next
134 preceding the submission of the application in this state and the
135 applicant certifies that the information contained in the application is
136 current;

137 (2) Contains information substantially similar to or more
138 comprehensive than that required in an application submitted in this
139 state; and

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

141 Sec. 6. (NEW) (*Effective January 1, 2005*) (a) Except as provided in
142 subsection (b) of this section, the Commissioner of Agriculture and
143 Consumer Protection shall issue a certificate of registration to an
144 individual who complies with subsection (a) of section 5 of this act or
145 whose application has been accepted under subsection (b) of section 5
146 of this act.

147 (b) The Commissioner of Agriculture and Consumer Protection may
148 refuse to issue a certificate of registration if the commissioner
149 determines that the applicant has engaged in conduct that has a
150 significant adverse effect on the applicant's fitness to act as an athlete
151 agent. In making the determination, the commissioner may consider
152 whether the applicant has:

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

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

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

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

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

163 (6) Engaged in conduct the consequence of which was that a
164 sanction, suspension or declaration of ineligibility to participate in an
165 interscholastic or intercollegiate athletic event was imposed on a
166 student-athlete or educational institution; or

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

169 (c) In making a determination under subsection (b) of this section,
170 the Commissioner of Agriculture and Consumer Protection shall
171 consider:

172 (1) How recently the conduct occurred;

173 (2) The nature of the conduct and the context in which it occurred;
174 and

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

176 (d) An athlete agent may apply to renew a registration by filing an
177 application for renewal in a form prescribed by the Commissioner of
178 Agriculture and Consumer Protection. The application for renewal
179 shall be signed by the applicant under penalty of perjury and shall
180 contain current information on all matters required in an original
181 registration.

182 (e) An individual who has filed an application for renewal of
183 registration or licensure in another state, in lieu of submitting an
184 application for renewal in the form prescribed pursuant to subsection
185 (d) of this section, may file a copy of the application for renewal and a
186 valid certificate of registration or licensure from the other state. The

187 Commissioner of Agriculture and Consumer Protection shall accept
188 the application for renewal from the other state as an application for
189 renewal in this state if the application to the other state:

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

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

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

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

199 Sec. 7. (NEW) (*Effective January 1, 2005*) (a) The Commissioner of
200 Agriculture and Consumer Protection may suspend, revoke or refuse
201 to renew a registration for conduct that would have justified denial of
202 registration under subsection (b) of section 6 of this act.

203 (b) The Commissioner of Agriculture and Consumer Protection may
204 deny, suspend, revoke or refuse to renew a certificate of registration
205 only after proper notice and an opportunity for a hearing in
206 accordance with chapter 54 of the general statutes.

207 Sec. 8. (NEW) (*Effective January 1, 2005*) The Commissioner of
208 Agriculture and Consumer Protection may issue a temporary
209 certificate of registration while an application for registration or
210 renewal of registration is pending.

211 Sec. 9. (NEW) (*Effective January 1, 2005*) An application for
212 registration or renewal of registration shall be accompanied by a fee in
213 the following amount:

214 (1) Two hundred dollars for an initial application for registration;

215 (2) Two hundred dollars for an application for registration based
216 upon a certificate of registration or licensure issued by another state;

217 (3) Two hundred dollars for an application for renewal of
218 registration; or

219 (4) Two hundred dollars for an application for renewal of
220 registration based upon an application for renewal of registration or
221 licensure submitted in another state.

222 Sec. 10. (NEW) (*Effective January 1, 2005*) (a) An agency contract shall
223 be in a record, signed or otherwise authenticated by the parties.

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

225 (1) The amount and method of calculating the consideration to be
226 paid by the student-athlete for services to be provided by the athlete
227 agent under the contract and any other consideration the athlete agent
228 has received or will receive from any other source for entering into the
229 contract or for providing the services;

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

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

235 (4) A description of the services to be provided to the student-
236 athlete;

237 (5) The duration of the contract; and

238 (6) The date of execution.

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

242 WARNING TO STUDENT-ATHLETE

243 IF YOU SIGN THIS CONTRACT:

244 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A
245 STUDENT-ATHLETE IN YOUR SPORT;

246 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS
247 AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND
248 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
249 DIRECTOR; AND

250 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
251 AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY
252 NOT REINSTATE YOUR ELIGIBILITY.

253 (d) An agency contract that does not conform to this section is
254 voidable by the student-athlete. If a student-athlete voids an agency
255 contract, the student-athlete is not required to pay any consideration
256 under the contract or to return any consideration received from the
257 athlete agent to induce the student-athlete to enter into the contract.

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

261 Sec. 11. (NEW) (*Effective January 1, 2005*) (a) Within seventy-two
262 hours after entering into an agency contract or before the next
263 scheduled athletic event in which the student-athlete may participate,
264 whichever occurs first, the athlete agent shall give notice in a record of
265 the existence of the contract to the athletic director of the educational
266 institution at which the student-athlete is enrolled or the athlete agent
267 has reasonable grounds to believe the student-athlete intends to enroll.

268 (b) Within seventy-two hours after entering into an agency contract
269 or before the next athletic event in which the student-athlete may
270 participate, whichever occurs first, the student-athlete shall inform the

271 athletic director of the educational institution at which the student-
272 athlete is enrolled that he or she has entered into an agency contract.

273 Sec. 12. (NEW) (*Effective January 1, 2005*) (a) A student-athlete may
274 cancel an agency contract by giving notice of the cancellation to the
275 athlete agent in a record within fourteen days after the contract is
276 signed.

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

279 (c) If a student-athlete cancels an agency contract, the student-
280 athlete is not required to pay any consideration under the contract or
281 to return any consideration received from the athlete agent to induce
282 the student-athlete to enter into the contract.

283 Sec. 13. (NEW) (*Effective January 1, 2005*) (a) An athlete agent shall
284 retain the following records for a period of five years:

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

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

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

290 (b) Records required by subsection (a) of this section to be retained
291 shall be open to inspection by the Commissioner of Agriculture and
292 Consumer Protection during normal business hours.

293 Sec. 14. (NEW) (*Effective January 1, 2005*) (a) An athlete agent, with
294 the intent to induce a student-athlete to enter into an agency contract,
295 may not:

296 (1) Give any materially false or misleading information or make a
297 materially false promise or representation;

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

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

302 (b) An athlete agent may not intentionally:

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

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

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

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

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

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

315 Sec. 15. (NEW) (*Effective January 1, 2005*) An athlete agent who
316 violates section 14 of this act is guilty of a class B misdemeanor.

317 Sec. 16. (NEW) (*Effective January 1, 2005*) (a) An educational
318 institution has a right of action against an athlete agent or a former
319 student-athlete for damages caused by a violation of sections 1 to 20,
320 inclusive, of this act. In an action under this section, the court may
321 award to the prevailing party costs and reasonable attorney's fees.

322 (b) Damages of an educational institution under subsection (a) of
323 this section include losses and expenses incurred because, as a result of
324 the conduct of an athlete agent or former student-athlete, the

325 educational institution was injured by a violation of sections 1 to 20,
326 inclusive, of this act or was penalized, disqualified or suspended from
327 participation in athletics by a national association for the promotion
328 and regulation of athletics, by an athletic conference or by reasonable
329 self-imposed disciplinary action taken to mitigate sanctions likely to be
330 imposed by such an organization.

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

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

337 (e) Sections 1 to 20, inclusive, of this act do not restrict rights,
338 remedies or defenses of any person under law or equity.

339 Sec. 17. (NEW) (*Effective January 1, 2005*) The Commissioner of
340 Agriculture and Consumer Protection, after notice and conducting a
341 hearing in accordance with chapter 54 of the general statutes, may
342 assess a civil penalty against an athlete agent not to exceed twenty-five
343 thousand dollars for a violation of sections 1 to 20, inclusive, of this act.

344 Sec. 18. (NEW) (*Effective January 1, 2005*) In applying and construing
345 the uniform provisions of sections 1 to 20, inclusive, of this act,
346 consideration must be given to the need to promote uniformity of the
347 law with respect to its subject matter among states that enact such
348 uniform provisions.

349 Sec. 19. (NEW) (*Effective January 1, 2005*) The provisions of sections 1
350 to 20, inclusive, of this act governing the legal effect, validity or
351 enforceability of electronic records or signatures, and of contracts
352 formed or performed with the use of such records or signatures
353 conform to the requirements of the Electronic Signatures in Global and
354 National Commerce Act, 15 USC 7002, and supersede, modify and

355 limit said federal act as provided in 15 USC 7002.

356 Sec. 20. (NEW) (*Effective January 1, 2005*) If any provision of sections
 357 1 to 20, inclusive, of this act or its application to any person or
 358 circumstance is held invalid, the invalidity does not affect other
 359 provisions or applications of sections 1 to 20, inclusive, of this act
 360 which can be given effect without the invalid provision or application,
 361 and to this end the provisions of sections 1 to 20, inclusive, of this act
 362 are severable.

363 Sec. 21. (*Effective January 1, 2005*) Sections 20-553 to 20-558, inclusive,
 364 of the general statutes, as amended by section 146 of public act 03-6 of
 365 the June 30 special session, are repealed.

This act shall take effect as follows:	
Section 1	<i>January 1, 2005</i>
Sec. 2	<i>January 1, 2005</i>
Sec. 3	<i>January 1, 2005</i>
Sec. 4	<i>January 1, 2005</i>
Sec. 5	<i>January 1, 2005</i>
Sec. 6	<i>January 1, 2005</i>
Sec. 7	<i>January 1, 2005</i>
Sec. 8	<i>January 1, 2005</i>
Sec. 9	<i>January 1, 2005</i>
Sec. 10	<i>January 1, 2005</i>
Sec. 11	<i>January 1, 2005</i>
Sec. 12	<i>January 1, 2005</i>
Sec. 13	<i>January 1, 2005</i>
Sec. 14	<i>January 1, 2005</i>
Sec. 15	<i>January 1, 2005</i>
Sec. 16	<i>January 1, 2005</i>
Sec. 17	<i>January 1, 2005</i>
Sec. 18	<i>January 1, 2005</i>
Sec. 19	<i>January 1, 2005</i>
Sec. 20	<i>January 1, 2005</i>
Sec. 21	<i>January 1, 2005</i>

Statement of Purpose:

To adopt the Uniform Athlete Agents Act to replace existing statutory provisions regulating athlete agents.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]