



General Assembly

Substitute Bill No. 487

February Session, 2004

* SB00487JUD__030904__ *

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 Consumer Protection in a form prescribed by the

79 commissioner. The application shall be in the name of an individual
80 and, except as provided in subsection (b) of this section, signed or
81 otherwise authenticated by the applicant under penalty of perjury and
82 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 felony, and identify the crime;

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

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

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

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

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

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

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

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

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

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

152 (1) Been convicted of a crime that, if committed in this state, would
153 be a felony;

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

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

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

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

162 (6) Engaged in conduct the consequence of which was that a
163 sanction, suspension or declaration of ineligibility to participate in an
164 interscholastic or intercollegiate athletic event was imposed on a

165 student-athlete or educational institution; or

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

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

170 (1) How recently the conduct occurred;

171 (2) The nature of the conduct and the context in which it occurred;
172 and

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

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

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

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

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

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

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

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

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

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

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

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

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

214 (3) Two hundred dollars for an application for renewal of
215 registration; or

216 (4) Two hundred dollars for an application for renewal of
217 registration based upon an application for renewal of registration or
218 licensure submitted in another state.

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

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

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

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

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

232 (4) A description of the services to be provided to the student-
233 athlete;

234 (5) The duration of the contract; and

235 (6) The date of execution.

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

239 **WARNING TO STUDENT-ATHLETE**

240 **IF YOU SIGN THIS CONTRACT:**

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

243 (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS**
244 **AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND**
245 **YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC**
246 **DIRECTOR; AND**

247 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS**

248 AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY
249 NOT REINSTATE YOUR ELIGIBILITY.

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

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

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

265 (b) Within seventy-two hours after entering into an agency contract
266 or before the next athletic event in which the student-athlete may
267 participate, whichever occurs first, the student-athlete shall inform the
268 athletic director of the educational institution at which the student-
269 athlete is enrolled that he or she has entered into an agency contract.

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

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

276 (c) If a student-athlete cancels an agency contract, the student-
277 athlete is not required to pay any consideration under the contract or

278 to return any consideration received from the athlete agent to induce
279 the student-athlete to enter into the contract.

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

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

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

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

287 (b) Records required by subsection (a) of this section to be retained
288 shall be open to inspection by the Commissioner of Consumer
289 Protection during normal business hours.

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

293 (1) Give any materially false or misleading information or make a
294 materially false promise or representation;

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

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

299 (b) An athlete agent may not intentionally:

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

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

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

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

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

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

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

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

319 (b) Damages of an educational institution under subsection (a) of
320 this section include losses and expenses incurred because, as a result of
321 the conduct of an athlete agent or former student-athlete, the
322 educational institution was injured by a violation of sections 1 to 20,
323 inclusive, of this act or was penalized, disqualified or suspended from
324 participation in athletics by a national association for the promotion
325 and regulation of athletics, by an athletic conference or by reasonable
326 self-imposed disciplinary action taken to mitigate sanctions likely to be
327 imposed by such an organization.

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

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

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

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

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

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

353 Sec. 20. (NEW) (*Effective January 1, 2005*) If any provision of sections
354 1 to 20, inclusive, of this act or its application to any person or
355 circumstance is held invalid, the invalidity does not affect other
356 provisions or applications of sections 1 to 20, inclusive, of this act
357 which can be given effect without the invalid provision or application,
358 and to this end the provisions of sections 1 to 20, inclusive, of this act
359 are severable.

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

This act shall take effect as follows:
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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>
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Sec. 16	<i>January 1, 2005</i>
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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>

JUD *Joint Favorable Subst.*