

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

The Committee on Business Regulation offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Subsections (2) and (5) of section 468.452,
Florida Statutes, are amended to read:

468.452 Definitions.--For purposes of this part, the
term:

(2) "Athlete agent" means a person who, directly or
indirectly, recruits or solicits a student athlete to enter
into an agent contract, or who, for any type of financial
gain, procures, offers, promises, or attempts to obtain
employment or promotional fees or benefits for a student
athlete with a professional sports team or as a professional
athlete, or with any promoter who markets or attempts to
market the student athlete's athletic ability or athletic
reputation. This term includes all employees and other persons
acting on behalf of an athlete agent who participate in the
activities included under this subsection. The term does not

Amendment No. 1 (for drafter's use only)

1 include a spouse, parent, sibling, grandparent, or guardian of
2 the student-athlete or an individual acting solely on behalf
3 of a professional sports team or professional sports
4 organization.

5 (5) "Student athlete" means any student who:

6 (a) Resides in Florida, has informed, in writing, a
7 college or university of the student's intent to participate
8 in that school's intercollegiate athletics, or who does
9 participate in that school's intercollegiate athletics and is
10 eligible to do so; ~~or~~

11 (b) Does not reside in Florida, but has informed, in
12 writing, a college or university in Florida of the student's
13 intent to participate in that school's intercollegiate
14 athletics, or who does participate in that school's
15 intercollegiate athletics and is eligible to do so; ~~or-~~

16 (c) Is less than 21 years of age and may be eligible
17 in the future to engage in any intercollegiate athletics.

18 Section 2. Section 468.453, Florida Statutes, is
19 amended to read:

20 468.453 Licensure required; qualifications;
21 examination; bond; exception; license nontransferable.--

22 (1) Any person who practices as an athlete agent in
23 this state must be licensed pursuant to this part.

24 (2) A person shall be licensed as an athlete agent if
25 the applicant:

26 (a) Is at least 18 years of age.

27 (b) Is of good moral character.

28 ~~(c) Passes an examination provided by the department~~
29 ~~which tests the applicant's proficiency to practice as an~~
30 ~~athlete agent, including, but not limited to, knowledge of the~~
31 ~~laws and rules of this state relating to athlete agents, this~~

Amendment No. 1 (for drafter's use only)

1 ~~part, and chapter 455.~~

2 (c)~~(d)~~ Has completed the application form and remitted
3 an application fee not to exceed \$500, ~~an examination fee not~~
4 ~~to exceed the actual cost for the examination plus \$500,~~ an
5 active licensure fee not to exceed \$2,000, and all other
6 applicable fees provided for in this part or in chapter 455.

7 (d)~~(e)~~ Has submitted to the department a fingerprint
8 card for a criminal history records check. The fingerprint
9 card shall be forwarded to the Division of Criminal Justice
10 Information Systems within the Department of Law Enforcement
11 for purposes of processing the fingerprint card to determine
12 if the applicant has a criminal history record. The
13 fingerprint card shall also be forwarded to the Federal Bureau
14 of Investigation for purposes of processing the fingerprint
15 card to determine if the applicant has a criminal history
16 record. The information obtained by the processing of the
17 fingerprint card by the Florida Department of Law Enforcement
18 and the Federal Bureau of Investigation shall be sent to the
19 department for the purpose of determining if the applicant is
20 statutorily qualified for licensure.

21 (e)~~(f)~~ Has not in any jurisdiction, within the
22 preceding 5 years, been convicted or found guilty of or
23 entered a plea of nolo contendere for, regardless of
24 adjudication, a crime which relates to the applicant's
25 practice or ability to practice as an athlete agent.

26 (f)~~(g)~~ Has posted with the department a \$15,000 surety
27 bond issued by an insurance company authorized to do business
28 in this state. The bond shall be in favor of the State of
29 Florida, Department of Business and Professional Regulation,
30 for the use and benefit of any student athlete or college or
31 university within Florida who or which is injured or damaged,

Amendment No. 1 (for drafter's use only)

1 including reasonable costs and attorney's fees, as a result of
2 acts or omissions by the athlete agent pursuant to a license
3 issued under this part. The bond shall be written in the form
4 determined by the department. The bond shall provide that the
5 athlete agent is responsible for the acts or omissions of any
6 representatives acting under the athlete agent's supervision
7 or authority. The bond shall be in effect for and cover all
8 times that the athlete agent has an active license and
9 conducts business pursuant to that license in this or any
10 other state.

11 (3) An unlicensed individual may act as an athlete
12 agent if:

13 (a) A student-athlete or person acting on the
14 athlete's behalf initiates communication with the individual;
15 and

16 (b) Within 7 days after an initial act as an athlete
17 agent, the individual submits an application for licensure.

18 ~~Members of The Florida Bar are exempt from the state laws and~~
19 ~~rules component, and the fee for such, of the examination~~
20 ~~required by this section.~~

21 (4) A license issued to an athlete agent is not
22 transferable.

23 (5) By acting as an athlete agent in this state, a
24 nonresident individual appoints the department as the
25 individual's agent for service of process in any civil action
26 related to the individual's acting as an athlete agent.

27 (6) The department may issue a temporary license while
28 an application for licensure is pending. If the department
29 issues a notice of intent to deny the license application, the
30 initial temporary license expires and may not be extended
31 during any proceeding or administrative or judicial review.

Amendment No. 1 (for drafter's use only)

1 Section 3. Section 468.454, Florida Statutes, is
2 amended to read:

3 468.454 Contracts.--

4 (1) An agent contract must be in a record, signed, or
5 otherwise authenticated by the parties.

6 (2) An agent contract must state:

7 (a) The amount and method of calculating the
8 consideration to be paid by the student-athlete for services
9 to be provided by the athlete agent and any other
10 consideration the agent has received or will receive from any
11 other source under the contract;

12 (b) The name of any person not listed in the licensure
13 application who will be compensated because the
14 student-athlete signed the agent contract;

15 (c) A description of any expenses that the
16 student-athlete agrees to reimburse;

17 (d) A description of the services to be provided to
18 the student-athlete;

19 (e) The duration of the contract; and

20 (f) The date of execution.

21 (3) An agent contract must contain, in close proximity
22 to the signature of the student-athlete, a conspicuous notice
23 in boldface type in capital letters stating:

24
25 WARNING TO STUDENT-ATHLETE

26
27 IF YOU SIGN THE CONTRACT:

28 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS
29 A STUDENT-ATHLETE IN YOUR SPORT;

30 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
31 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND

Amendment No. 1 (for drafter's use only)

1 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
2 DIRECTOR; AND

3 3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
4 AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS
5 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

6
7 (4) An agent contract that does not conform to this
8 section is voidable by the student-athlete. If a
9 student-athlete voids an agent contract, the student-athlete
10 is not required to pay any consideration or return any
11 consideration received from the athlete agent to induce the
12 student-athlete to enter into the contract.

13 (5) The athlete agent shall give a record of the
14 signed or authenticated agent contract to the student-athlete
15 at the time of execution.

16 (6) Within 72 hours after entering into an agent
17 contract or before the next scheduled athletic event in which
18 the student-athlete may participate, whichever occurs first,
19 the athlete agent must give notice in a record of the
20 existence of the contract to the athletic director of the
21 educational institution at which the student-athlete is
22 enrolled or the athlete agent has reasonable grounds to
23 believe the student-athlete intends to enroll.

24 (7) Within 72 hours after entering into an agent
25 contract or before the next athletic event in which the
26 student-athlete may participate, whichever occurs first, the
27 student-athlete must inform the athletic director of the
28 educational institution at which the student-athlete is
29 enrolled that he or she has entered into an agent contract.

30 (8) A student-athlete may cancel an agent contract by
31 giving notice of the cancellation to the athlete agent in a

Amendment No. 1 (for drafter's use only)

1 record within 14 days after the contract is signed.

2 (9) A student-athlete may not waive the right to
3 cancel an agent contract.

4 (10) If a student-athlete cancels an agent contract,
5 the student-athlete is not required to pay any consideration
6 or return any consideration received from the athlete agent to
7 induce the student-athlete to enter into the contract.

8 ~~(1) An athlete agent and a student athlete who enter~~
9 ~~into an agent contract must provide written notice of the~~
10 ~~contract to the athletic director or the president of the~~
11 ~~college or university in which the student athlete is~~
12 ~~enrolled. The athlete agent and the student must give the~~
13 ~~notice before the contracting student athlete practices or~~
14 ~~participates in any intercollegiate athletic event or within~~
15 ~~72 hours after entering into said contract, whichever comes~~
16 ~~first. Failure of the athlete agent to provide this~~
17 ~~notification is a felony of the third degree, punishable as~~
18 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~
19 ~~775.091.~~

20 ~~(2) A written contract between a student athlete and~~
21 ~~an athlete agent must state the fees and percentages to be~~
22 ~~paid by the student athlete to the agent and must have a~~
23 ~~notice printed near the student athlete's signature containing~~
24 ~~the following statement in 10-point boldfaced type:~~

25 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~
26 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~
27 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~
28 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~
29 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~
30 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~
31 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~

Amendment No. 1 (for drafter's use only)

1 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~
2 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~
3 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~
4 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~
5 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~
6 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~
7 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~
8 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~
9 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~
10 ~~ATHLETICS."~~

11 ~~(3) An agent contract which does not meet the~~
12 ~~requirements of this section is void and unenforceable.~~

13 ~~(4) Within 15 days after the date the athletic~~
14 ~~director or president of the college or university of the~~
15 ~~student athlete receives the notice required by this section~~
16 ~~that a student athlete has entered into an athlete agent~~
17 ~~contract, the student athlete shall have the right to rescind~~
18 ~~the contract with the athlete agent by giving written notice~~
19 ~~to the athlete agent of the student athlete's rescission of~~
20 ~~the contract. The student athlete may not under any~~
21 ~~circumstances waive the student athlete's right to rescind the~~
22 ~~agent contract.~~

23 ~~(5) A postdated agent contract is void and~~
24 ~~unenforceable.~~

25 ~~(11)(6) An athlete agent shall not enter into an agent~~
26 ~~contract that purports to or takes effect at a future time~~
27 ~~after the student athlete no longer has remaining eligibility~~
28 ~~to participate in intercollegiate athletics. Such a contract~~
29 ~~is void and unenforceable.~~

30 ~~(12)(7) An agent contract between a student athlete~~
31 ~~and a person not licensed under this part is void and~~

Amendment No. 1 (for drafter's use only)

1 unenforceable.

2 Section 4. Subsection (3) of section 468.456, Florida
3 Statutes, is amended to read:

4 468.456 Prohibited acts.--

5 (3) When the department finds any person guilty of any
6 of the prohibited acts set forth in subsection (1), the
7 department may enter an order imposing one or more of the
8 penalties provided for in s. 455.227, and an administrative
9 fine not to exceed \$25,000 for each separate offense. In
10 addition to any other penalties or disciplinary actions
11 provided for in this part, the department shall suspend or
12 revoke the license of any athlete agent licensed under this
13 part who violates paragraph (1)(f) or paragraph (1)(o) or s.
14 468.45615.

15 Section 5. Subsection (4) is added to section
16 468.45615, Florida Statutes, to read:

17 468.45615 Provision of illegal inducements to athletes
18 prohibited; penalties; license suspension.--

19 (4)(a) An athlete agent, with the intent to induce a
20 student-athlete to enter into an agent contract, may not:

21 1. Give any materially false or misleading information
22 or make a materially false promise or representation;

23 2. Furnish anything of value to a student-athlete
24 before the student-athlete enters into the agent contract; or

25 3. Furnish anything of value to any individual other
26 than the student-athlete or another athlete agent.

27 (b) An athlete agent may not intentionally:

28 1. Initiate contact with a student-athlete unless
29 licensed under this part;

30 2. Refuse or fail to retain or permit inspection of
31 the records required to be retained by s. 468.4565;

Amendment No. 1 (for drafter's use only)

1 3. Provide materially false or misleading information
2 in an application for licensure;

3 4. Predate or postdate an agent contract;

4 5. Fail to give notice of the existence of an agent
5 contract as required by s. 468.454(6); or

6 6. Fail to notify a student-athlete before the
7 student-athlete signs or otherwise authenticates an agent
8 contract for a sport that the signing or authentication may
9 make the student-athlete ineligible to participate as a
10 student-athlete in that sport.

11 (c) An athlete agent who violates this subsection
12 commits a felony of the second degree, punishable as provided
13 in s. 775.082, s. 775.083, or s. 775.084.

14 Section 6. Section 468.4562, Florida Statutes, is
15 amended to read:

16 468.4562 Civil action by institution.--

17 (1) A college or university may sue for damages, as
18 provided by this section, any person who violates this part.
19 A college or university may seek equitable relief to prevent
20 or minimize harm arising from acts or omissions which are or
21 would be a violation of this part.

22 (2) For purposes of this section, a college or
23 university is damaged if, because of activities of the person,
24 the college or university is penalized,or is disqualified,or
25 suspended from participation in intercollegiate athletics by a
26 national association for the promotion and regulation of
27 intercollegiate athletics,or by an intercollegiate athletic
28 conference or by reasonable self-imposed disciplinary action
29 taken to mitigate sanctions likely to be imposed by such
30 organization and, because of that penalty, disqualification,
31 or suspension, or action the institution:

Amendment No. 1 (for drafter's use only)

- 1 (a) Loses revenue from media coverage of a sports
2 contest;
- 3 (b) Loses the right to grant an athletic scholarship;
- 4 (c) Loses the right to recruit an athlete;
- 5 (d) Is prohibited from participating in postseason
6 athletic competition;
- 7 (e) Forfeits an athletic contest; or
- 8 (f) Otherwise suffers an adverse financial impact.
- 9 (3) An institution that prevails in a suit brought
10 under this section may recover:
- 11 (a) Actual damages;
- 12 (b) Punitive damages;
- 13 (c) Treble damages;
- 14 (d) Court costs; and
- 15 (e) Reasonable attorney's fees.
- 16 (4) A right of action under this section does not
17 accrue until the educational institution discovers or by the
18 exercise of reasonable diligence would have discovered the
19 violation by the athlete agent or former student-athlete.
- 20 (5) Any liability of the athlete agent or the former
21 student-athlete under this section is several and not joint.
- 22 (6) This part does not restrict rights, remedies, or
23 defenses of any person under law or equity.

24 Section 7. Subsection (1) of section 468.4565, Florida
25 Statutes, is amended to read:

26 468.4565 Business records requirement.--

- 27 (1) An athlete agent ~~who holds an active license and~~
28 ~~engages in business as an athlete agent~~ shall establish and
29 maintain complete financial and business records. The athlete
30 agent shall save each entry into a financial or business
31 record for at least 5 ~~4~~ years from the date of entry. These

Amendment No. 1 (for drafter's use only)

1 records must include, but shall not be limited to:

2 (a) The name and address of each individual
3 represented by the athlete agent;

4 (b) Any agent contract entered into by the athlete
5 agent; and

6 (c) Any direct costs incurred by the athlete agent in
7 the recruitment or solicitation of a student-athlete to enter
8 into an agent contract.

9 Section 8. Sections 468.4563 and 48.4564, Florida
10 Statutes, are repealed.

11 Section 9. This act shall take effect July 1, 2001.

12

13

14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 On page 1, lines 2-30,

17 remove from the title of the bill: all of said lines

18

19 and insert in lieu thereof:

20 An act relating to athlete agents; amending s.

21 468.452, F.S.; revising definitions; amending

22 s. 468.453, F.S.; revising licensure

23 requirements; providing for service of process

24 on nonresident agents; providing for temporary

25 licenses; amending s. 468.454, F.S.; revising

26 contract requirements; providing for

27 cancellation of contracts; amending s. 468.456,

28 F.S.; providing for increased administrative

29 fines; amending s. 468.45615, F.S.; providing

30 additional criminal penalties for certain acts;

31 amending s. 468.4562, F.S.; revising provisions

Amendment No. 1 (for drafter's use only)

1 relating to civil remedies available to
2 colleges and universities for violations of
3 athlete agent regulations; amending s.
4 468.4565, F.S.; revising business record
5 requirements; repealing s. 468.4563, F.S.,
6 relating to authority to require continuing
7 education by athlete agents; repealing s.
8 468.4564, relating to license display
9 requirements; providing an effective date.

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