

By Senator King

8-847-01

See HB 1477

1 A bill to be entitled

2 An act relating to athlete agents; revising pt.

3 IX, ch. 468, F.S., to adopt a uniform law for

4 regulating athlete agents in place of current

5 law regulating athlete agents; creating ss.

6 468.4611-468.4631, F.S.; providing a short

7 title; providing definitions; providing for

8 service of process and issuance of subpoenas;

9 requiring registration of athlete agents and

10 providing requirements therefor; providing for

11 issuance and renewal of certificates of

12 registration; providing for suspension,

13 revocation, or refusal to renew registration;

14 providing for temporary registration; providing

15 fees; providing contract requirements;

16 requiring certain notice to educational

17 institution; providing student-athlete's right

18 to cancel a contract; providing recordkeeping

19 requirements; prohibiting certain conduct;

20 providing criminal penalties, civil remedies,

21 and administrative penalties; providing

22 liability; providing for uniformity of

23 application and construction; providing

24 requirements with respect to electronic

25 records, signatures, and contracts; repealing

26 ss. 468.451-468.457, F.S., relating to

27 regulation of athlete agents, to conform;

28 providing applicability to current licensees;

29 providing severability; providing an effective

30 date.

31

1 Be It Enacted by the Legislature of the State of Florida:

2
3 Section 1. Sections 468.4611, 468.4612, 468.4613,
4 468.4614, 468.4615, 468.4616, 468.4617, 468.4618, 468.4619,
5 468.4621, 468.4622, 468.4623, 468.4624, 468.4625, 468.4626,
6 468.4627, 468.4628, 468.4629, and 468.4631, Florida Statutes,
7 are created to read:

8 468.4611 Short title.--This part may be cited as the
9 "Uniform Athlete Agents Act."

10 468.4612 Definitions.--In this part:

11 (1) "Agency contract" means an agreement in which a
12 student-athlete authorizes a person to negotiate or solicit on
13 behalf of the student-athlete a professional-sports-services
14 contract or an endorsement contract.

15 (2) "Athlete agent" means an individual who enters
16 into an agency contract with a student-athlete or, directly or
17 indirectly, recruits or solicits a student-athlete to enter
18 into an agency contract. The term includes an individual who
19 represents to the public that the individual is an athlete
20 agent. The term does not include a spouse, parent, sibling,
21 grandparent, or guardian of the student-athlete or an
22 individual acting solely on behalf of a professional sports
23 team or professional sports organization.

24 (3) "Athletic director" means an individual
25 responsible for administering the overall athletic program of
26 an educational institution or, if an educational institution
27 has separately administered athletic programs for male
28 students and female students, the athletic program for males
29 or the athletic program for females, as appropriate.

30 (4) "Contact" means a communication, direct or
31 indirect, between an athlete agent and a student-athlete to

1 recruit or solicit the student-athlete to enter into an agency
2 contract.

3 (5) "Department" means the Department of Business and
4 Professional Regulation.

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

11 (7) "Intercollegiate sport" means a sport played at
12 the collegiate level for which eligibility requirements for
13 participation by a student-athlete are established by a
14 national association for the promotion or regulation of
15 collegiate athletics.

16 (8) "Person" means an individual, corporation,
17 business trust, estate, trust, partnership, limited liability
18 company, association, joint venture, government or
19 governmental subdivision, agency, or instrumentality, public
20 corporation, or any other legal or commercial entity.

21 (9) "Professional-sports-services contract" means an
22 agreement under which an individual is employed, or agrees to
23 render services, as a player on a professional sports team,
24 with a professional sports organization, or as a professional
25 athlete.

26 (10) "Record" means information that is inscribed on a
27 tangible medium or that is stored in an electronic or other
28 medium and is retrievable in perceivable form.

29 (11) "Registration" means registration as an athlete
30 agent pursuant to this part.

31

1 (12) "State" means a state of the United States, the
2 District of Columbia, Puerto Rico, the United States Virgin
3 Islands, or any territory or insular possession subject to the
4 jurisdiction of the United States.

5 (13) "Student-athlete" means an individual who engages
6 in, is eligible to engage in, or may be eligible in the future
7 to engage in any intercollegiate sport. If an individual is
8 permanently ineligible to participate in a particular
9 intercollegiate sport, the individual is not a student-athlete
10 for purposes of that sport.

11 468.4613 Service of process; subpoenas.--

12 (1) By acting as an athlete agent in this state, a
13 nonresident individual appoints the department as the
14 individual's agent for service of process in any civil action
15 in this state related to the individual's acting as an athlete
16 agent in this state.

17 (2) The department may issue subpoenas for any
18 material that is relevant to the administration of this part.

19 468.4614 Athlete agents; registration required; void
20 contracts.--

21 (1) Except as otherwise provided in subsection (2), an
22 individual may not act as an athlete agent in this state
23 without holding a certificate of registration under s.
24 468.4616 or s. 468.4618.

25 (2) Before being issued a certificate of registration,
26 an individual may act as an athlete agent in this state for
27 all purposes except signing an agency contract if:

28 (a) A student-athlete or another person acting on
29 behalf of the student-athlete initiates communication with the
30 individual; and

31

1 (b) Within 7 days after an initial act as an athlete
2 agent, the individual submits an application for registration
3 as an athlete agent in this state.

4 (3) An agency contract resulting from conduct in
5 violation of this section is void, and the athlete agent shall
6 return any consideration received under the contract.

7 468.4615 Registration as athlete agent; form;
8 requirements.--

9 (1) An applicant for registration shall submit an
10 application for registration to the department in a form
11 prescribed by the department. An application filed under this
12 section is a public record. The application must be in the
13 name of an individual and, except as otherwise provided in
14 subsection (2), signed or otherwise authenticated by the
15 applicant under penalty of perjury and must state or contain:

16 (a) The name of the applicant and the address of the
17 applicant's principal place of business;

18 (b) The name of the applicant's business or employer,
19 if applicable;

20 (c) Any business or occupation engaged in by the
21 applicant for the 5 years next preceding the date of
22 submission of the application;

23 (d) A description of the applicant's:

24 1. Formal training as an athlete agent;

25 2. Practical experience as an athlete agent; and

26 3. Educational background relating to the applicant's
27 activities as an athlete agent;

28 (e) The names and addresses of three individuals not
29 related to the applicant who are willing to serve as
30 references;

31

1 (f) The name, sport, and last known team for each
2 individual for whom the applicant acted as an athlete agent
3 during the 5 years next preceding the date of submission of
4 the application;

5 (g) The names and addresses of all persons who are:

6 1. With respect to the athlete agent's business if it
7 is not a corporation, the partners, members, officers,
8 managers, associates, or profit sharers of the business; and

9 2. With respect to a corporation employing the athlete
10 agent, the officers, directors, and any shareholder of the
11 corporation having an interest of 5 percent or greater;

12 (h) Whether the applicant or any person named pursuant
13 to paragraph (g) has been convicted of a crime that, if
14 committed in this state, would be a crime involving moral
15 turpitude or a felony, and identify the crime;

16 (i) Whether there has been any administrative or
17 judicial determination that the applicant or any person named
18 pursuant to paragraph (g) has made a false, misleading,
19 deceptive, or fraudulent representation;

20 (j) Any instance in which the conduct of the applicant
21 or any person named pursuant to paragraph (g) resulted in the
22 imposition of a sanction, suspension, or declaration of
23 ineligibility to participate in an interscholastic or
24 intercollegiate athletic event on a student-athlete or
25 educational institution;

26 (k) Any sanction, suspension, or disciplinary action
27 taken against the applicant or any person named pursuant to
28 paragraph (g) arising out of occupational or professional
29 conduct; and

30 (l) Whether there has been any denial of an
31 application for, suspension or revocation of, or refusal to

1 renew the registration or licensure of the applicant or any
2 person named pursuant to paragraph (g) as an athlete agent in
3 any state.

4 (2) An individual who has submitted an application
5 for, and holds a certificate of, registration or licensure as
6 an athlete agent in another state may submit a copy of the
7 application and certificate in lieu of submitting an
8 application in the form prescribed pursuant to subsection (1).
9 The department shall accept the application and the
10 certificate from the other state as an application for
11 registration in this state if the application to the other
12 state:

13 (a) Was submitted in the other state within 6 months
14 next preceding the submission of the application in this state
15 and the applicant certifies that the information contained in
16 the application is current;

17 (b) Contains information substantially similar to or
18 more comprehensive than that required in an application
19 submitted in this state; and

20 (c) Was signed by the applicant under penalty of
21 perjury.

22 468.4616 Certificate of registration; issuance or
23 denial; renewal.--

24 (1) Except as otherwise provided in subsection (2),
25 the department shall issue a certificate of registration to an
26 individual who complies with s. 468.4615(1) or whose
27 application has been accepted under s. 468.4615(2).

28 (2) The department may refuse to issue a certificate
29 of registration if the department determines that the
30 applicant has engaged in conduct that has a significant
31 adverse effect on the applicant's fitness to act as an athlete

1 agent. In making the determination, the department may
2 consider whether the applicant has:
3 (a) Been convicted of a crime that, if committed in
4 this state, would be a crime involving moral turpitude or a
5 felony;
6 (b) Made a materially false, misleading, deceptive, or
7 fraudulent representation in the application or as an athlete
8 agent;
9 (c) Engaged in conduct that would disqualify the
10 applicant from serving in a fiduciary capacity;
11 (d) Engaged in conduct prohibited by s. 468.4625;
12 (e) Had a registration or licensure as an athlete
13 agent suspended, revoked, or denied or been refused renewal of
14 registration or licensure as an athlete agent in any state;
15 (f) Engaged in conduct the consequence of which was
16 that a sanction, suspension, or declaration of ineligibility
17 to participate in an interscholastic or intercollegiate
18 athletic event was imposed on a student-athlete or educational
19 institution; or
20 (g) Engaged in conduct that significantly adversely
21 reflects on the applicant's credibility, honesty, or
22 integrity.
23 (3) In making a determination under subsection (2),
24 the department shall consider:
25 (a) How recently the conduct occurred;
26 (b) The nature of the conduct and the context in which
27 it occurred; and
28 (c) Any other relevant conduct of the applicant.
29 (4) An athlete agent may apply to renew a registration
30 by submitting an application for renewal in a form prescribed
31 by the department. An application filed under this section is

1 a public record. The application for renewal must be signed by
2 the applicant under penalty of perjury and must contain
3 current information on all matters required in an original
4 registration.

5 (5) An individual who has submitted an application for
6 renewal of registration or licensure in another state, in lieu
7 of submitting an application for renewal in the form
8 prescribed pursuant to subsection (4), may file a copy of the
9 application for renewal and a valid certificate of
10 registration or licensure from the other state. The department
11 shall accept the application for renewal from the other state
12 as an application for renewal in this state if the application
13 to the other state:

14 (a) Was submitted in the other state within 6 months
15 next preceding the filing in this state and the applicant
16 certifies the information contained in the application for
17 renewal is current;

18 (b) Contains information substantially similar to or
19 more comprehensive than that required in an application for
20 renewal submitted in this state; and

21 (c) Was signed by the applicant under penalty of
22 perjury.

23 (6) A certificate of registration or a renewal of a
24 registration is valid for 2 years.

25 468.4617 Suspension, revocation, or refusal to renew
26 registration.--

27 (1) The department may suspend, revoke, or refuse to
28 renew a registration for conduct that would have justified
29 denial of registration under s. 468.4616(2).

30 (2) The department may deny, suspend, revoke, or
31 refuse to renew a certificate of registration or licensure

1 only after proper notice and an opportunity for a hearing.
2 Chapter 120, the Administrative Procedure Act, applies to this
3 part.
4 468.4618 Temporary registration.--The department may
5 issue a temporary certificate of registration while an
6 application for registration or renewal of registration is
7 pending.
8 468.4619 Registration and renewal fees.--An
9 application for registration or renewal of registration must
10 be accompanied by a fee in the following amount:
11 (1) For an initial application for
12 registration.....\$500.
13 (2) For an application for registration based upon a
14 certificate of registration or licensure issued by another
15 state.....\$500.
16 (3) For an application for renewal of
17 registration.....\$500.
18 (4) For an application for renewal of registration
19 based upon an application for renewal of registration or
20 licensure submitted in another state.....\$500.
21 468.4621 Required form of contract.--
22 (1) An agency contract must be in a record, signed, or
23 otherwise authenticated by the parties.
24 (2) An agency contract must state or contain:
25 (a) The amount and method of calculating the
26 consideration to be paid by the student-athlete for services
27 to be provided by the athlete agent under the contract and any
28 other consideration the athlete agent has received or will
29 receive from any other source for entering into the contract
30 or for providing the services;
31

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

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

7 (d) A description of the services to be provided to
8 the student-athlete;

9 (e) The duration of the contract; and

10 (f) The date of execution.

11 (3) An agency contract must contain, in close
12 proximity to the signature of the student-athlete, a
13 conspicuous notice in boldface type in capital letters
14 stating:

15
16 WARNING TO STUDENT-ATHLETE

17
18 IF YOU SIGN THE CONTRACT:

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

21 2. IF YOU HAVE AN ATHLETIC DIRECTOR,
22 WITHIN 72 HOURS AFTER ENTERING INTO THE
23 CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST
24 NOTIFY YOUR ATHLETIC DIRECTOR; AND

25 3. YOU MAY CANCEL THIS CONTRACT WITHIN 14
26 DAYS AFTER SIGNING IT. CANCELLATION OF THIS
27 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

28
29 (4) An agency contract that does not conform to this
30 section is voidable by the student-athlete. If a
31 student-athlete voids an agency contract, the student-athlete

1 is not required to pay any consideration under the contract or
2 to return any consideration received from the athlete agent to
3 induce the student-athlete to enter into the contract.

4 (5) The athlete agent shall give a record of the
5 signed or otherwise authenticated agency contract to the
6 student-athlete at the time of execution.

7 468.4622 Notice to educational institution.--

8 (1) Within 72 hours after entering into an agency
9 contract or before the next scheduled athletic event in which
10 the student-athlete may participate, whichever occurs first,
11 the athlete agent shall give notice in a record of the
12 existence of the contract to the athletic director of the
13 educational institution at which the student-athlete is
14 enrolled or the athlete agent has reasonable grounds to
15 believe the student-athlete intends to enroll.

16 (2) Within 72 hours after entering into an agency
17 contract or before the next athletic event in which the
18 student-athlete may participate, whichever occurs first, the
19 student-athlete shall inform the athletic director of the
20 educational institution at which the student-athlete is
21 enrolled that he or she has entered into an agency contract.

22 468.4623 Student-athlete's right to cancel.--

23 (1) A student-athlete may cancel an agency contract by
24 giving notice of the cancellation to the athlete agent in a
25 record within 14 days after the contract is signed.

26 (2) A student-athlete may not waive the right to
27 cancel an agency contract.

28 (3) If a student-athlete cancels an agency contract,
29 the student-athlete is not required to pay any consideration
30 under the contract or to return any consideration received
31

1 from the athlete agent to induce the student-athlete to enter
2 into the contract.

3 468.4624 Required records.--

4 (1) An athlete agent shall retain the following
5 records for a period of 5 years:

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

8 (b) Any agency contract entered into by the athlete
9 agent; and

10 (c) Any direct costs incurred by the athlete agent in
11 the recruitment or solicitation of a student-athlete to enter
12 into an agency contract.

13 (2) Records required by subsection (1) to be retained
14 are open to inspection by the department during normal
15 business hours.

16 468.4625 Prohibited conduct.--

17 (1) An athlete agent, with the intent to induce a
18 student-athlete to enter into an agency contract, may not:

19 (a) Give any materially false or misleading
20 information or make a materially false promise or
21 representation;

22 (b) Furnish anything of value to a student-athlete
23 before the student-athlete enters into the agency contract; or

24 (c) Furnish anything of value to any individual other
25 than the student-athlete or another registered athlete agent.

26 (2) An athlete agent may not intentionally:

27 (a) Initiate contact with a student-athlete unless
28 registered under this part;

29 (b) Refuse or fail to retain or permit inspection of
30 the records required to be retained by s. 468.4624;

31 (c) Fail to register when required by s. 468.4614;

1 (d) Provide materially false or misleading information
2 in an application for registration or renewal of registration;

3 (e) Predate or postdate an agency contract; or

4 (f) Fail to notify a student-athlete before the
5 student-athlete signs or otherwise authenticates an agency
6 contract for a particular sport that the signing or
7 authentication may make the student-athlete ineligible to
8 participate as a student-athlete in that sport.

9 468.4626 Criminal penalties.--An athlete agent who
10 violates s. 468.4625 commits a felony of the second degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084.

13 468.4627 Civil remedies.--

14 (1) An educational institution has a right of action
15 against an athlete agent or a former student-athlete for
16 damages caused by a violation of this part. In an action under
17 this section, the court may award to the prevailing party
18 costs and reasonable attorney's fees.

19 (2) Damages of an educational institution under
20 subsection (1) include losses and expenses incurred because,
21 as a result of the conduct of an athlete agent or former
22 student-athlete, the educational institution was injured by a
23 violation of this part or was penalized, disqualified, or
24 suspended from participation in athletics by a national
25 association for the promotion and regulation of athletics, by
26 an athletic conference, or by reasonable self-imposed
27 disciplinary action taken to mitigate sanctions likely to be
28 imposed by such an organization.

29 (3) A right of action under this section does not
30 accrue until the educational institution discovers or by the
31

1 exercise of reasonable diligence would have discovered the
2 violation by the athlete agent or former student-athlete.

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

5 (5) This part does not restrict rights, remedies, or
6 defenses of any person under law or equity.

7 468.4628 Administrative penalty.--The department may
8 assess a civil penalty against an athlete agent not to exceed
9 \$25,000 for a violation of this part.

10 468.4629 Uniformity of application and
11 construction.--In applying and construing this uniform act,
12 consideration must be given to the need to promote uniformity
13 of the law with respect to its subject matter among states
14 that enact it.

15 468.4631 Electronic records, signatures, and
16 contracts.--The provisions of this part governing the legal
17 effect, validity, or enforceability of electronic records or
18 signatures, and of contracts formed or performed with the use
19 of such records or signatures, conform to the requirements of
20 Section 102 of the Electronic Signatures in Global and
21 National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464
22 (2000), and supersede, modify, and limit the Electronic
23 Signatures in Global and National Commerce Act.

24 Section 2. Sections 468.451, 468.452, 468.453,
25 468.4535, 468.4536, 468.454, 468.456, 468.4561, 468.45615,
26 468.4562, 468.4563, 468.4564, 468.4565, and 468.457, Florida
27 Statutes, are repealed.

28 Section 3. Any person who, on the effective date of
29 this act, has a valid license as an athlete agent issued under
30 the provisions of part IX of chapter 468, Florida Statutes,
31 repealed by this act shall be considered registered under the

1 provisions of part IX of chapter 468, Florida Statutes,
2 created by this act until the beginning of the immediately
3 ensuing renewal period. At the time of renewal of such
4 license, such person must register as required under the
5 provisions of part IX of chapter 468, Florida Statutes,
6 created by this act.

7 Section 4. If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 invalidity does not affect other provisions or applications of
10 this act which can be given effect without the invalid
11 provision or application, and to this end the provisions of
12 this act are severable.

13 Section 5. This act shall take effect July 1, 2001.

14
15 *****

16 HOUSE SUMMARY

17 Adopts a uniform law for regulating athlete agents.
18 Eliminates current law regulating athlete agents, to
19 conform. See bill for details.

20
21
22
23
24
25
26
27
28
29
30
31