

By the Committee on Regulated Industries and Senators King and Smith

315-1843-01

1 A bill to be entitled
2 An act relating to athlete agents; amending s.
3 468.452, F.S.; revising definitions; amending
4 s. 468.453, F.S.; revising licensure
5 requirements; providing for service of process
6 on nonresident agents; providing for temporary
7 licenses; amending s. 468.454, F.S.; revising
8 contract requirements; providing for
9 cancellation of contracts; amending s. 468.456,
10 F.S.; providing for increased administrative
11 fines; amending s. 468.45615, F.S.; providing
12 additional criminal penalties for certain acts;
13 amending s. 468.4562, F.S.; revising provisions
14 relating to civil remedies available to
15 colleges and universities for violations of
16 athlete agent regulations; amending s.
17 468.4565, F.S.; revising business record
18 requirements; repealing s. 468.4563, F.S.,
19 relating to authority to require continuing
20 education by athlete agents; repealing s.
21 468.4564, relating to license display
22 requirements; providing an effective date

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

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

28 468.452 Definitions.--For purposes of this part, the
29 term:

30 (2) "Athlete agent" means a person who, directly or
31 indirectly, recruits or solicits a student athlete to enter

1 into an agent contract, or who, for any type of financial
2 gain, procures, offers, promises, or attempts to obtain
3 employment or promotional fees or benefits for a student
4 athlete with a professional sports team or as a professional
5 athlete, or with any promoter who markets or attempts to
6 market the student athlete's athletic ability or athletic
7 reputation. This term includes all employees and other persons
8 acting on behalf of an athlete agent who participate in the
9 activities included under this subsection. The term does not
10 include a spouse, parent, sibling, grandparent, or guardian of
11 the student-athlete or an individual acting solely on behalf
12 of a professional sports team or professional sports
13 organization.

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

15 (a) Resides in Florida, has informed, in writing, a
16 college or university of the student's intent to participate
17 in that school's intercollegiate athletics, or who does
18 participate in that school's intercollegiate athletics and is
19 eligible to do so; ~~or~~

20 (b) Does not reside in Florida, but has informed, in
21 writing, a college or university in Florida of the student's
22 intent to participate in that school's intercollegiate
23 athletics, or who does participate in that school's
24 intercollegiate athletics and is eligible to do so; ~~or-~~

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

27 Section 2. Section 468.453, Florida Statutes, is
28 amended to read:

29 468.453 Licensure required; qualifications;
30 examination; bond; exception; license nontransferable.--

31

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

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

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

6 (b) Is of good moral character.

7 ~~(c) Passes an examination provided by the department~~
8 ~~which tests the applicant's proficiency to practice as an~~
9 ~~athlete agent, including, but not limited to, knowledge of the~~
10 ~~laws and rules of this state relating to athlete agents, this~~
11 ~~part, and chapter 455.~~

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

17 (d)~~(e)~~ Has submitted to the department a fingerprint
18 card for a criminal history records check. The fingerprint
19 card shall be forwarded to the Division of Criminal Justice
20 Information Systems within the Department of Law Enforcement
21 for purposes of processing the fingerprint card to determine
22 if the applicant has a criminal history record. The
23 fingerprint card shall also be forwarded to the Federal Bureau
24 of Investigation for purposes of processing the fingerprint
25 card to determine if the applicant has a criminal history
26 record. The information obtained by the processing of the
27 fingerprint card by the Florida Department of Law Enforcement
28 and the Federal Bureau of Investigation shall be sent to the
29 department for the purpose of determining if the applicant is
30 statutorily qualified for licensure.

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

6 ~~(f)(g)~~ Has posted with the department a \$15,000 surety
7 bond issued by an insurance company authorized to do business
8 in this state. The bond shall be in favor of the State of
9 Florida, Department of Business and Professional Regulation,
10 for the use and benefit of any student athlete or college or
11 university within Florida who or which is injured or damaged,
12 including reasonable costs and attorney's fees, as a result of
13 acts or omissions by the athlete agent pursuant to a license
14 issued under this part. The bond shall be written in the form
15 determined by the department. The bond shall provide that the
16 athlete agent is responsible for the acts or omissions of any
17 representatives acting under the athlete agent's supervision
18 or authority. The bond shall be in effect for and cover all
19 times that the athlete agent has an active license and
20 conducts business pursuant to that license in this or any
21 other state.

22 (3) An unlicensed individual may act as an athlete
23 agent if:

24 (a) A student-athlete or person acting on the
25 athlete's behalf initiates communication with the individual;
26 and

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

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

1 (4) A license issued to an athlete agent is not
2 transferable.

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

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

12 Section 3. Section 468.454, Florida Statutes, is
13 amended to read:

14 468.454 Contracts.--

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

17 (2) An agent contract must state:

18 (a) The amount and method of calculating the
19 consideration to be paid by the student-athlete for services
20 to be provided by the athlete agent and any other
21 consideration the agent has received or will receive from any
22 other source under the contract;

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

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

28 (d) A description of the services to be provided to
29 the student-athlete;

30 (e) The duration of the contract; and

31 (f) The date of execution.

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

4
5 WARNING TO STUDENT-ATHLETE

6
7 IF YOU SIGN THE CONTRACT:

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

10 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
11 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND
12 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
13 DIRECTOR; AND

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

17
18 (4) An agent contract that does not conform to this
19 section is voidable by the student-athlete. If a
20 student-athlete voids an agent contract, the student-athlete
21 is not required to pay any consideration or return any
22 consideration received from the athlete agent to induce the
23 student-athlete to enter into the contract.

24 (5) The athlete agent shall give a record of the
25 signed or authenticated agent contract to the student-athlete
26 at the time of execution.

27 (6) Within 72 hours after entering into an agent
28 contract or before the next scheduled athletic event in which
29 the student-athlete may participate, whichever occurs first,
30 the athlete agent must give notice in a record of the
31 existence of the contract to the athletic director of the

1 educational institution at which the student-athlete is
2 enrolled or the athlete agent has reasonable grounds to
3 believe the student-athlete intends to enroll.

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

10 (8) A student-athlete may cancel an agent contract by
11 giving notice of the cancellation to the athlete agent in a
12 record within 14 days after the contract is signed.

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

15 (10) If a student-athlete cancels an agent contract,
16 the student-athlete is not required to pay any consideration
17 or return any consideration received from the athlete agent to
18 induce the student-athlete to enter into the contract.

19 ~~(1) An athlete agent and a student athlete who enter~~
20 ~~into an agent contract must provide written notice of the~~
21 ~~contract to the athletic director or the president of the~~
22 ~~college or university in which the student athlete is~~
23 ~~enrolled. The athlete agent and the student must give the~~
24 ~~notice before the contracting student athlete practices or~~
25 ~~participates in any intercollegiate athletic event or within~~
26 ~~72 hours after entering into said contract, whichever comes~~
27 ~~first. Failure of the athlete agent to provide this~~
28 ~~notification is a felony of the third degree, punishable as~~
29 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~
30 ~~775.091.~~

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

6 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~
7 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~
8 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~
9 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~
10 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~
11 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~
12 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~
13 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~
14 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~
15 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~
16 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~
17 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~
18 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~
19 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~
20 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~
21 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~
22 ~~ATHLETICS."~~

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

25 ~~(4) Within 15 days after the date the athletic~~
26 ~~director or president of the college or university of the~~
27 ~~student athlete receives the notice required by this section~~
28 ~~that a student athlete has entered into an athlete agent~~
29 ~~contract, the student athlete shall have the right to rescind~~
30 ~~the contract with the athlete agent by giving written notice~~
31 ~~to the athlete agent of the student athlete's rescission of~~

1 ~~the contract. The student athlete may not under any~~
2 ~~circumstances waive the student athlete's right to rescind the~~
3 ~~agent contract.~~

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

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

11 (12)~~(7)~~ An agent contract between a student athlete
12 and a person not licensed under this part is void and
13 unenforceable.

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

16 468.456 Prohibited acts.--

17 (3) When the department finds any person guilty of any
18 of the prohibited acts set forth in subsection (1), the
19 department may enter an order imposing one or more of the
20 penalties provided for in s. 455.227, and an administrative
21 fine not to exceed \$25,000 for each separate offense. In
22 addition to any other penalties or disciplinary actions
23 provided for in this part, the department shall suspend or
24 revoke the license of any athlete agent licensed under this
25 part who violates paragraph (1)(f) or paragraph (1)(o) or s.
26 468.45615.

27 Section 5. Subsection (4) is added to section
28 468.45615, Florida Statutes, to read:

29 468.45615 Provision of illegal inducements to athletes
30 prohibited; penalties; license suspension.--

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

3 1. Give any materially false or misleading information
4 or make a materially false promise or representation;

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

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

9 (b) An athlete agent may not intentionally:

10 1. Initiate contact with a student-athlete unless
11 licensed under this part;

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

14 3. Provide materially false or misleading information
15 in an application for licensure;

16 4. Predate or postdate an agent contract;

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

19 6. Fail to notify a student-athlete before the
20 student-athlete signs or otherwise authenticates an agent
21 contract for a sport that the signing or authentication may
22 make the student-athlete ineligible to participate as a
23 student-athlete in that sport.

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

27 Section 6. Section 468.4562, Florida Statutes, is
28 amended to read:

29 468.4562 Civil action by institution.--

30 (1) A college or university may sue for damages, as
31 provided by this section, any person who violates this part.

1 A college or university may seek equitable relief to prevent
2 or minimize harm arising from acts or omissions which are or
3 would be a violation of this part.

4 (2) For purposes of this section, a college or
5 university is damaged if, because of activities of the person,
6 the college or university is penalized,or is disqualified,or
7 suspended from participation in intercollegiate athletics by a
8 national association for the promotion and regulation of
9 intercollegiate athletics,or by an intercollegiate athletic
10 conference or by reasonable self-imposed disciplinary action
11 taken to mitigate sanctions likely to be imposed by such
12 organization and, because of that penalty, disqualification,
13 ~~or~~ suspension, or action the institution:

14 (a) Loses revenue from media coverage of a sports
15 contest;

16 (b) Loses the right to grant an athletic scholarship;

17 (c) Loses the right to recruit an athlete;

18 (d) Is prohibited from participating in postseason
19 athletic competition;

20 (e) Forfeits an athletic contest; or

21 (f) Otherwise suffers an adverse financial impact.

22 (3) An institution that prevails in a suit brought
23 under this section may recover:

24 (a) Actual damages;

25 (b) Punitive damages;

26 (c) Treble damages;

27 (d) Court costs; and

28 (e) Reasonable attorney's fees.

29 (4) 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 (5) Any liability of the athlete agent or the former
4 student-athlete under this section is several and not joint.

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

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

9 468.4565 Business records requirement.--

10 (1) An athlete agent ~~who holds an active license and~~
11 ~~engages in business as an athlete agent~~ shall establish and
12 maintain complete financial and business records. The athlete
13 agent shall save each entry into a financial or business
14 record for at least 5 ~~4~~ years from the date of entry. These
15 records must include, but shall not be limited to:

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

18 (b) Any agent contract entered into by the athlete
19 agent; and

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

23 Section 8. Sections 468.4563 and 468.4564, Florida
24 Statutes, are repealed.

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 2066

The Committee Substitute for Senate Bill 2066 substantially amends part IX of chapter 468, Florida Statutes and repeals two sections therein instead of repealing all of part IX with a uniform law. It retains current licensure procedure contained in the existing law, minus examination and the associated fee, including requirements for fingerprint cards and surety bonds. It references the term "agent contract" instead of "agency contract," retains certain disciplinary procedures set forth in section 455.227, F.S., to provide for administrative penalties, and makes failure to notify under section 468.454(6), F.S., a criminal offense. It also retains provisions for rulemaking set forth in the current law.