

By the Committees on Judiciary, Regulated Industries and
Senators King and Smith

308-1936-01

1 A bill to be entitled

2 An act relating to athlete agents; amending s.

3 468.452, F.S.; revising a definition; 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. Subsection (2) of section 468.452, Florida
27 Statutes, is 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 Section 2. Section 468.453, Florida Statutes, is
15 amended to read:

16 468.453 Licensure required; qualifications;
17 examination; bond; exception; license nontransferable.--

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

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

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

23 (b) Is of good moral character.

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

29 (c)(d) Has completed the application form and remitted
30 an application fee not to exceed \$500, ~~an examination fee not~~
31 ~~to exceed the actual cost for the examination plus \$500,an~~

1 active licensure fee not to exceed \$2,000, and all other
2 applicable fees provided for in this part or in chapter 455.

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

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

22 ~~(g) Has posted with the department a \$15,000 surety
23 bond issued by an insurance company authorized to do business
24 in this state. The bond shall be in favor of the State of
25 Florida, Department of Business and Professional Regulation,
26 for the use and benefit of any student athlete or college or
27 university within Florida who or which is injured or damaged,
28 including reasonable costs and attorney's fees, as a result of
29 acts or omissions by the athlete agent pursuant to a license
30 issued under this part. The bond shall be written in the form
31 determined by the department. The bond shall provide that the~~

1 ~~athlete agent is responsible for the acts or omissions of any~~
2 ~~representatives acting under the athlete agent's supervision~~
3 ~~or authority. The bond shall be in effect for and cover all~~
4 ~~times that the athlete agent has an active license and~~
5 ~~conducts business pursuant to that license in this or any~~
6 ~~other state.~~

7 (3) An unlicensed individual may act as an athlete
8 agent if:

9 (a) A student-athlete or person acting on the
10 athlete's behalf initiates communication with the individual;
11 and

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

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

17 (4) A license issued to an athlete agent is not
18 transferable.

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

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

28 Section 3. Section 468.454, Florida Statutes, is
29 amended to read:

30 468.454 Contracts.--

31

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

3 (2) An agent contract must state:

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

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

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

14 (d) A description of the services to be provided to
15 the student-athlete;

16 (e) The duration of the contract; and

17 (f) The date of execution.

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

21
22 WARNING TO STUDENT-ATHLETE

23
24 IF YOU SIGN THE CONTRACT:

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

27 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
28 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND
29 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
30 DIRECTOR; AND

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

24 (11)~~(6)~~ An athlete agent shall not enter into an agent
25 contract that purports to or takes effect at a future time
26 after the student athlete no longer has remaining eligibility
27 to participate in intercollegiate athletics. Such a contract
28 is void and unenforceable.

29 (12)~~(7)~~ An agent contract between a student athlete
30 and a person not licensed under this part is void and
31 unenforceable.

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

3 468.456 Prohibited acts.--

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

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

16 468.45615 Provision of illegal inducements to athletes
17 prohibited; penalties; license suspension.--

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

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

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

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

26 (b) An athlete agent may not intentionally:

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

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

31

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:

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

1 record for at least 5 ~~4~~ years from the date of entry. These
2 records must include, but shall not be limited to:

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

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

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

10 Section 8. Sections 468.4563 and 468.4564, Florida
11 Statutes, are repealed.

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

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 CS/SB 2066

17 Removes the 21-age limitation of "student athletes" who may be
18 subject to the athlete agent provisions.

19 Removes the \$15,000 surety bond requirement.
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