
SUBSTITUTE SENATE BILL 5151

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Franklin, Kohl-Welles and Keiser)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the registration of persons who provide or offer
2 to provide athletic coaching services to children under the age of
3 eighteen; amending RCW 43.24.150; adding a new section to chapter 42.56
4 RCW; adding a new chapter to Title 19 RCW; creating a new section;
5 prescribing penalties; providing an effective date; and declaring an
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds that parents, local
9 jurisdictions, nonprofit organizations, and other entities providing
10 athletic opportunities to youth need better information about the
11 criminal histories of prospective coaches before they hire, engage, or
12 otherwise retain the coaches for compensation. The legislature
13 declares that the safety, health, and welfare of children and families
14 of this state would benefit from the establishment of a uniform
15 registration system for all persons who, for compensation, provide or
16 offer to provide athletic coaching services to persons under the age of
17 eighteen, other than as an employee of a public or private school.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Athletic" means a physical activity requiring or typically
4 involving stamina, agility, strength, knowledge of the activity's
5 rules, and the capability to perform movements or functions required
6 under those rules. "Athletic" includes individual and organized or
7 team sports or games.

8 (2) "Commercial youth athletic coach" means a person who performs
9 youth athletic coaching for compensation through an employment or
10 business relationship other than where the person possesses a current
11 teaching certificate under chapter 28A.410 RCW or is employed by a
12 private or public school after completing a criminal history background
13 check as required by RCW 28A.195.080 or 28A.400.303.

14 (3) "Department" means the department of licensing.

15 (4) "Director" means the director of licensing or the director's
16 designee.

17 (5) "Youth athletic coaching" means the activity of providing
18 services relating to the development of a child's or youth's athletic
19 talents, skills, or abilities where the child or youth is under the age
20 of eighteen, and the coach is not related to the child or youth by
21 blood or marriage.

22 NEW SECTION. **Sec. 3.** (1) A person may not advertise or otherwise
23 offer to provide the services of a commercial youth athletic coach, or
24 to engage in, conduct, or carry on the business of commercial youth
25 athletic coaching in this state unless the person possesses a valid,
26 unsuspended, and unexpired certificate of registration issued by the
27 department under this chapter.

28 (2) A person is guilty of a gross misdemeanor when the person (a)
29 violates this section; and (b) has, as of the date of the violation,
30 any conviction defined in section 13 of this act, regardless whether
31 the conviction appears on any criminal history background record.

32 NEW SECTION. **Sec. 4.** (1) The director may require, by rule, any
33 information and documentation that reasonably relates to the need to
34 determine whether the applicant meets the requirements established by
35 this section.

1 (2) The director shall issue a certificate of registration as a
2 commercial youth athletic coach only to an applicant who:

3 (a) Is at least eighteen years of age;

4 (b) Is a citizen or resident alien of the United States;

5 (c) Has a place of business or residence located in the state;

6 (d) Submits a fully completed application on the form prescribed by
7 the director;

8 (e) Submits a set of the applicant's fingerprints for a background
9 check through the Washington state patrol criminal identification
10 system under RCW 10.97.030 and 10.97.050 and through the federal bureau
11 of investigation;

12 (f) Pays a nonrefundable fee as is required by the department for
13 the background check; and

14 (g) Has no disqualifying conviction, as provided under section 13
15 of this act, regardless whether the conviction appears on any criminal
16 history background record.

17 NEW SECTION. **Sec. 5.** (1) The Washington state patrol shall
18 forward the fingerprint data submitted by an applicant under this
19 chapter to the federal bureau of investigation for a national criminal
20 history records check.

21 (2) An application submitted under section 4 of this act is not
22 complete until the search result has been received by the department
23 from both the Washington state patrol and the federal bureau of
24 investigation fingerprint check systems.

25 (3) Criminal history record information received by the department
26 under this chapter is exempt from public inspection or disclosure under
27 chapter 42.56 RCW.

28 (4)(a) The director shall issue a certificate of registration as a
29 commercial youth athletic coach to each applicant within thirty days
30 after receiving the background check results from both (i) the
31 Washington state patrol criminal identification system; and (ii) the
32 federal bureau of investigation.

33 (b) The certificate of registration must contain a unique
34 registration number and a prominent statement containing the following
35 information:

36 (i) That the certificate of registration is not a guarantee that

1 the subject of the inquiry has no criminal record or adverse civil or
2 administrative decisions;

3 (ii) That the certificate of registration is not an endorsement of
4 the holder by the state of Washington, nor a guarantee that the
5 registrant is substantively qualified in the field of athletic
6 coaching; and

7 (iii) That if the responsibilities or duties of the commercial
8 youth athletic coach includes transporting the youth by private
9 vehicle, the parent, guardian, or hiring entity is authorized by RCW
10 46.52.130 and section 12 of this act to request and receive a certified
11 copy of the registrant's abstract of driving record.

12 NEW SECTION. **Sec. 6.** (1) A commercial youth athletic coach shall
13 include the following information in any advertisement or other
14 publication that the coach authorizes, sponsors, or purchases, in whole
15 or in part, which contains an offer to provide services as a commercial
16 youth athletic coach: (a) The coach's true name as it appears in the
17 records of the department; (b) the coach's address of record with the
18 department; and (c) the registration number issued by the department
19 under this chapter.

20 (2)(a) Before entering into a contract for compensation with the
21 parent, parents, or guardian of a child to provide youth athletic
22 coaching services to the child, a commercial youth athletic coach shall
23 deliver to the parents or guardians a certified copy of the certificate
24 of registration issued under this chapter.

25 (b) Before entering into an employment or business relationship
26 with a third party to provide youth athletic coaching services to the
27 clients or members of the third party, the commercial youth athletic
28 coach shall deliver to the hiring officer of any entity employing or
29 retaining the coach a certified copy of the certificate of registration
30 issued under this chapter.

31 (3) The department may charge a reasonable fee, not to exceed ten
32 dollars, to create each certified copy of a certificate of registration
33 issued under this chapter.

34 (4) A certificate of registration issued under this chapter is
35 valid for two years from the date of issue, and is not transferable.

36 (5) The department shall renew a certificate of registration, with
37 the same unique registration number identifying the registrant, upon

1 receipt of an application containing no disqualifying convictions as
2 provided under section 4 of this act. The director may, by rule,
3 provide for an additional fee for the submission of a renewal
4 application received less than ninety days prior to the renewal date.

5 NEW SECTION. **Sec. 7.** (1) The state of Washington and its
6 employees are not liable for defamation, invasion of privacy,
7 negligence, or any other claim in connection with any lawful
8 dissemination of information released under this chapter.

9 (2) A person may not represent to another that the lawful
10 dissemination of information under this chapter guarantees that the
11 subject of the inquiry (a) has no criminal record or adverse civil or
12 administrative decisions; or (b) is substantively suitable or
13 qualified.

14 NEW SECTION. **Sec. 8.** (1)(a) A person registered or required to be
15 registered under this chapter shall notify the director within thirty
16 days of any material change in the information furnished or required to
17 be furnished to the director, including but not limited to the
18 discovery of any (i) error that the registrant knows or should know is
19 contained in the criminal history record information report submitted
20 as part of the registrant's application under this chapter; or (ii)
21 arrest or conviction of the registrant for any criminal offense
22 occurring after the date of application.

23 (b) Upon receipt of any information relating to a person required
24 to be registered, as described in (a) of this subsection, the director
25 shall investigate the accuracy of the information and may accept proof
26 of a recent fingerprint background check. If the director concludes
27 the report of the registrant is accurate and that the applicant has not
28 been convicted of a disqualifying crime under section 13 of this act,
29 the director shall update the records maintained by the department,
30 assess a reasonable fee of not less than fifty dollars, and, upon
31 receipt of the required fee, issue an amended certificate of
32 registration to the registrant.

33 (2) The director shall suspend the certificate of registration of
34 any person who has been:

35 (a) Convicted of any criminal offense after the date of
36 application, unless the registrant has notified the director of such

1 conviction and pays the fee required by subsection (1) of this section,
2 provided that the conviction does not disqualify the registrant
3 pursuant to section 13 of this act;

4 (b) Certified by a lending agency and reported to the director for
5 nonpayment or default on a federally or state-guaranteed educational
6 loan or service-conditional scholarship. Prior to the suspension, the
7 agency must provide the person an opportunity for a brief adjudicative
8 proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of
9 nonpayment or default on a federally or state-guaranteed educational
10 loan or service-conditional scholarship. The person's registration may
11 not be reissued until the person provides the director a written
12 release issued by the lending agency stating that the person is making
13 payments on the loan in accordance with a repayment agreement approved
14 by the lending agency. If the person has continued to meet all other
15 requirements for registration during the suspension, reinstatement
16 shall be automatic upon receipt of the notice and payment of any
17 reinstatement fee the director may impose; or

18 (c) Certified under RCW 74.20A.320 by the department of social and
19 health services as a person who is not in compliance with a support
20 order. If the person has continued to meet all other requirements for
21 reinstatement during the suspension, reissuance of the registration
22 shall be automatic upon the director's receipt of a release issued by
23 the department of social and health services stating that the person is
24 in compliance with the order.

25 NEW SECTION. **Sec. 9.** (1) The provisions of this chapter relating
26 to the registration of commercial youth athletic coaches are exclusive.
27 No governmental subdivision of the state may enact any laws or rules
28 with respect to registration of commercial youth athletic coaches for
29 regulatory purposes, except as provided in subsections (2) and (3) of
30 this section.

31 (2) This section may not be construed to prohibit a political
32 subdivision of this state from levying a business fee, business and
33 occupation tax, or other tax upon commercial youth athletic coaches if
34 the fees or taxes are levied by the political subdivision on other
35 types of businesses within its boundaries.

36 (3) This section may not be construed to prohibit the state or any

1 political subdivision of the state from licensing for regulatory
2 purposes commercial youth athletic coaches with respect to activities
3 that are not regulated under this chapter.

4 NEW SECTION. **Sec. 10.** (1) The uniform regulation of business and
5 professions act, chapter 18.235 RCW, governs the issuance and denial of
6 registrations and the discipline of registrants under this chapter.

7 (2) In addition to those powers set forth in RCW 18.235.030, the
8 director has the authority to enter into an assurance of discontinuance
9 in lieu of issuing a statement of charges or conducting a hearing. The
10 assurance must consist of a statement of the law in question and an
11 agreement to not violate the stated provision. The applicant or
12 registered commercial youth athletic coach is not required to admit to
13 any violation of the law, and the assurance may not be construed as
14 such an admission. Violation of an assurance under this subsection is
15 grounds for disciplinary action.

16 (3) In addition to the unprofessional conduct described in RCW
17 18.235.130, the following conduct, acts, or conditions constitute
18 unprofessional conduct:

19 (a) Violating any of the provisions of this chapter or the rules
20 adopted under this chapter;

21 (b) Violating an order to cease and desist that is issued by the
22 director under this chapter;

23 (c) Misrepresenting or knowingly making a material misstatement or
24 omission in the application to register as a commercial youth athletic
25 coach; or

26 (d) Misrepresenting or knowingly making a material misstatement or
27 omission in any physical or electronic material soliciting for business
28 as a commercial youth athletic coach as required under section 6(1) of
29 this act.

30 NEW SECTION. **Sec. 11.** Any person may submit a written complaint
31 to the department charging a commercial youth athletic coach or
32 applicant with unprofessional conduct and specifying the grounds for
33 the charge. If the director determines that the complaint merits
34 investigation, or if the director has reason to believe, without a
35 formal complaint, that a registered commercial youth athletic coach or
36 applicant may have engaged in unprofessional conduct, the director

1 shall investigate to determine if there has been unprofessional
2 conduct. A person who files a complaint under this section in good
3 faith is immune from suit in any civil action related to the filing or
4 contents of the complaint. When a statement of charges is issued
5 against a registered commercial youth athletic coach or applicant under
6 RCW 18.235.050, notice of this action must be given to the commercial
7 youth athletic coach or applicant.

8 NEW SECTION. **Sec. 12.** In addition to any other duties imposed by
9 law, the director shall have the following powers and duties:

10 (1) To set by rule all registration, renewal, and other fees in
11 accordance with RCW 43.24.086;

12 (2) To adopt those rules, in accordance with the administrative
13 procedure act, chapter 34.05 RCW, necessary to implement this chapter;

14 (3) To expend such funds as the director deems appropriate to
15 educate affected coaches, parents, and other entities, of the
16 requirements of this chapter; and

17 (4) To furnish the certified abstract of a driving record, under
18 RCW 46.52.130, of any person registered under this chapter to any
19 person or entity submitting a request for such a record accompanied by
20 an original or photocopy of the registrant's certificate of
21 registration as a commercial youth athletic coach.

22 NEW SECTION. **Sec. 13.** (1) The director shall not issue a
23 certificate of registration as a commercial youth athletic coach to any
24 applicant when the criminal history record information report contains
25 information indicating the following, regardless of whether the
26 conviction appears on any criminal history background record:

27 (a) Conviction of any gross misdemeanor or felony relating to the
28 practice of the person's profession or operation of the person's
29 business; or

30 (b) The commission of any act involving moral turpitude,
31 dishonesty, or corruption relating to the practice of the person's
32 profession or operation of the person's business, whether the act
33 constitutes a crime or not.

34 (2) For the purposes of this section, conviction includes all
35 instances in which a plea of guilty or nolo contendere is the basis for
36 conviction and all proceedings in which the sentence has been deferred

1 or suspended. Except as specifically provided by law, nothing in this
2 section abrogates the provisions of chapter 9.96A RCW. However, RCW
3 9.96A.020 does not apply to a person who is required to register as a
4 sex offender under RCW 9A.44.130.

5 NEW SECTION. **Sec. 14.** A new section is added to chapter 42.56 RCW
6 to read as follows:

7 Criminal history information received by the department of
8 licensing under chapter 19.-- RCW (sections 1 through 13 and 15 of this
9 act) is exempt from disclosure under this chapter.

10 NEW SECTION. **Sec. 15.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 **Sec. 16.** RCW 43.24.150 and 2005 c 25 s 1 are each amended to read
15 as follows:

16 (1) The business and professions account is created in the state
17 treasury. All receipts from business or professional licenses,
18 registrations, certifications, renewals, examinations, or civil
19 penalties assessed and collected by the department from the following
20 chapters must be deposited into the account:

- 21 (a) Chapter 18.11 RCW, auctioneers;
- 22 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 23 (c) Chapter 18.96 RCW, landscape architects;
- 24 (d) Chapter 18.145 RCW, court reporters;
- 25 (e) Chapter 18.165 RCW, private investigators;
- 26 (f) Chapter 18.170 RCW, security guards;
- 27 (g) Chapter 18.185 RCW, bail bond agents;
- 28 (h) Chapter 19.16 RCW, collection agencies;
- 29 (i) Chapter 19.31 RCW, employment agencies;
- 30 (j) Chapter 19.105 RCW, camping resorts;
- 31 (k) Chapter 19.138 RCW, sellers of travel;
- 32 (l) Chapter 42.44 RCW, notaries public; (~~and~~)
- 33 (m) Chapter 64.36 RCW, timeshares; and
- 34 (n) Chapter 19.-- RCW (sections 1 through 13 and 15 of this act),
35 youth athletic coaches.

1 Moneys in the account may be spent only after appropriation.
2 Expenditures from the account may be used only for expenses incurred in
3 carrying out these business and professions licensing activities of the
4 department. Any residue in the account shall be accumulated and shall
5 not revert to the general fund at the end of the biennium.

6 (2) The director shall biennially prepare a budget request based on
7 the anticipated costs of administering the business and professions
8 licensing activities listed in subsection (1) of this section, which
9 shall include the estimated income from these business and professions
10 fees.

11 NEW SECTION. **Sec. 17.** Sections 1 through 13 and 15 of this act
12 constitute a new chapter in Title 19 RCW.

13 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 July 1, 2007.

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