
HOUSE BILL 1121

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Heavey, Schmidt, Rayburn, Wood, Kremen, Basich, Dorn, Wilson, Wineberry, Haugen, Jacobsen, Van Luven and Betrozoff.

Read first time January 21, 1991. Referred to Committee on Commerce & Labor\Appropriations.

1 AN ACT Relating to athlete agents; adding a new chapter to Title 18
2 RCW; making an appropriation; providing an effective date; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature finds
6 it necessary to regulate the practice of athlete agents and athlete
7 agent firms to protect the public health, safety, and welfare. The
8 legislature intends that only individuals who meet and maintain minimum
9 standards of competence and conduct may provide service to the public.

10 NEW SECTION. **Sec. 2.** LICENSING REQUIRED. (1) No person may
11 practice or represent himself or herself as an athlete agent or athlete
12 agent firm without a license to practice as an athlete agent or athlete
13 agent firm.

1 (2) No person other than an athlete agent may directly or
2 indirectly solicit an individual to enter into an agent contract or
3 professional sport services contract or procure, offer, promise, or
4 attempt to obtain employment for an individual with a professional
5 sport team or as a professional athlete.

6 (3) No athlete agent firm may act under this chapter other than
7 through an athlete agent.

8 (4) No athlete agent or athlete agent firm may bring or maintain an
9 action in any court of this state for the collection of compensation as
10 an athlete agent or athlete agent firm without alleging and proving
11 that the plaintiff was duly licensed under this chapter prior to the
12 time of offering to perform any such act or service or procuring any
13 promise or contract for the payment of compensation for any such
14 contemplated act or service.

15 Chapter 18.118 RCW does not apply to the licensing of athlete
16 agents and athlete agent firms.

17 NEW SECTION. **Sec. 3.** DEFINITIONS. Unless the context clearly
18 requires otherwise, the definitions in this section apply throughout
19 this chapter.

20 (1) "Department" means the department of licensing.

21 (2) "Director" means the director of licensing.

22 (3) "Athlete agent" means an individual licensed under this
23 chapter.

24 (4) "Athlete agent firm" means a sole proprietorship, partnership,
25 association, corporation, or other entity that employs one or more
26 individuals to act as an athlete agent on behalf of the entity.

27 (5) "Agent contract" means a contract or agreement pursuant to
28 which a person authorizes or empowers an athlete agent to negotiate or
29 solicit on behalf of the person with one or more professional sport

1 teams for the employment of the person by a professional sport team or
2 to negotiate or solicit on behalf of the person for the employment of
3 the person as a professional athlete.

4 (6) "Immediate family" means the student athlete's spouse,
5 children, parent, stepparent, or guardian.

6 (7) "Institution of higher education" means a public or private
7 college or university in this state.

8 (8) "Licensee" means a person licensed under this chapter.

9 (9) "Person" means an individual, sole proprietorship, partnership,
10 association, corporation, or other legal entity.

11 (10) "Professional sport services contract" means a contract or
12 agreement pursuant to which a person is employed or agrees to render
13 services as a player on a professional sport team or as a professional
14 athlete.

15 (11) "Student athlete" means a person who engages in, is eligible
16 to engage in, or may be eligible to engage in any intercollegiate
17 sporting event, contest, exhibition, or program in this state. The
18 term also includes an individual who has applied for enrollment to an
19 institution of higher education.

20 NEW SECTION. **Sec. 4.** DIRECTOR'S AUTHORITY. In addition to any
21 other authority provided by law, the director may:

22 (1) Adopt rules in accordance with chapter 34.05 RCW necessary to
23 implement this chapter;

24 (2) Establish forms necessary to administer this chapter;

25 (3) Issue a license to an applicant who has met the requirements
26 for licensure and deny a license to an applicant who does not meet the
27 minimum qualifications for licensure;

28 (4) Hire clerical, administrative, and investigative staff as
29 needed to implement and administer this chapter and hire individuals,

1 including those licensed under this chapter, to serve as examiners or
2 consultants as necessary to implement and administer this chapter;

3 (5) Maintain the official departmental record of all applicants and
4 licensees;

5 (6) Conduct a hearing, pursuant to chapter 34.05 RCW, on an appeal
6 of a denial of a license based on the applicant's failure to meet the
7 minimum qualifications for licensure;

8 (7) Investigate alleged violations of this chapter and consumer
9 complaints involving the practice of athlete agents and athlete agent
10 firms;

11 (8) Issue subpoenas, statements of charges, statements of intent to
12 deny licenses, and orders and delegate in writing to a designee the
13 authority to issue subpoenas, statements of charges, and statements of
14 intent to deny licenses;

15 (9) Conduct disciplinary proceedings, impose sanctions, and assess
16 fines for violations of this chapter or any rules adopted under it in
17 accordance with chapter 34.05 RCW;

18 (10) Prepare and administer or approve the preparation and
19 administration of examinations for licensure;

20 (11) Set all license, examination, renewal, and late renewal fees
21 in accordance with RCW 43.24.086;

22 (12) Establish by rule the procedures for an appeal of an
23 examination failure;

24 (13) Set license expiration dates and renewal periods for all
25 licenses under this chapter; and

26 (14) Adopt rules establishing procedures to provide for the
27 issuance of limited permits and the fee for such permits.

28 NEW SECTION. **Sec. 5.** REQUIREMENTS FOR LICENSURE. (1) The
29 department shall issue an athlete agent firm license to any applicant

1 successfully meeting the qualifications required by this chapter. Each
2 application shall include the following:

3 (a) An application completed on the forms provided by the
4 department, supplemented with any information and documentation the
5 department may determine is necessary to evaluate the applicant's
6 qualifications;

7 (b) The license fee established by rule as provided in RCW
8 43.24.086;

9 (c) A surety bond or a savings assignment in an amount set forth in
10 rule on a form provided by the department;

11 (d) The name under which the licensee will conduct business in this
12 state and the location of its business office;

13 (e) The name, address, and Washington license number of each
14 athlete agent authorized to act on behalf of the athlete agent firm in
15 this state;

16 (f) The names and addresses of the officers and directors if the
17 applicant is a corporation;

18 (g) The name and address of each partner if the applicant is a
19 partnership;

20 (h) The name and address of the owner if the applicant is a sole
21 proprietor;

22 (i) The name and address and percent of stock of each shareholder
23 owning ten percent or more of any stock in the applicant firm;

24 (j) A statement disclosing all sanctions issued to or disciplinary
25 actions taken against the athlete agent firm or employee of the firm,
26 or any athlete, professional sport team, or institution of higher
27 education as the result of the conduct of the employee or athlete agent
28 firm; and

29 (k) A statement disclosing all felony convictions, or misdemeanor
30 convictions punishable by imprisonment, of each owner, partner,

1 officer, or shareholder of ten percent or more of the stock of the
2 athlete agent firm.

3 (2) An athlete agent firm shall not be charged a license fee if it
4 is a sole proprietorship or a partnership owned by an athlete agent or
5 athlete agents, each of whom is licensed under this chapter.

6 (3) The department shall issue an athlete agent license to any
7 applicant successfully meeting the qualifications required by this
8 chapter and passing the athlete agent license examination. Each
9 application for athlete agent shall include the following:

10 (a) An application completed on forms provided by the department,
11 supplemented with any information and documentation the department may
12 determine is necessary to evaluate the applicant's qualifications;

13 (b) The license fee and examination fee established by rule as
14 provided in RCW 43.24.086;

15 (c) A surety bond or a savings assignment in an amount set forth in
16 rule on a form provided by the department;

17 (d) The name, address, and Washington license number of each
18 athlete agent firm the applicant athlete agent represents; and

19 (e) A copy of the disclosure statement required in section 7 of
20 this act.

21 (4) No license may be issued to an applicant who has engaged in
22 unprofessional conduct as defined in this chapter and in the rules
23 adopted by the director.

24 (5) After the revocation of any license, no new license may be
25 issued to the same licensee within a period of at least two years from
26 the date of revocation.

27 NEW SECTION. **Sec. 6.** SURETY BOND. A surety bond or a savings
28 assignment in an amount to be determined by the director, but not less
29 than twenty-five thousand dollars, shall be maintained in full force

1 and effect by each athlete agent and each athlete agent firm and kept
2 on file with the department for the benefit of the people of the state.

3 A person injured or damaged as a result of any violation by the
4 licensee of any of the provisions of this chapter or of any rule
5 adopted by the director thereunder shall have cause to file a claim
6 against the licensee and may bring suit upon such bond or savings
7 assignment in an appropriate court of the county in which the office of
8 the athlete agent or athlete agent firm is located or of any county in
9 which jurisdiction of the licensee may be had. Action upon such bond
10 or savings assignment shall be commenced by serving and filing of the
11 complaint within one year from the date of expiration of the athlete
12 agent or athlete agent firm license in force at the time the act for
13 which the suit is brought occurred. A copy of the complaint shall be
14 served by registered or certified mail upon the director at the time
15 the suit is started, and the director shall maintain a record,
16 available for public inspection, of all suits so commenced. Service on
17 the director shall constitute service on the surety and the director
18 shall transmit the complaint or a copy thereof to the surety within
19 five business days after it has been received.

20 The surety upon the bond shall not be liable in an aggregate amount
21 in excess of the amount named in the bond, but if claims pending at any
22 one time exceed the amount of the bond, claims shall be satisfied in
23 the order of judgment rendered. If any final judgment impairs the
24 liability of the surety upon the bonds so furnished or the amount of
25 the savings assignment so that there is not in effect a bond
26 undertaking or savings assignment in the full amount prescribed by this
27 section, the director shall suspend the license of the athlete agent or
28 athlete agent firm until the bond undertaking or savings assignment in
29 the required amount, unimpaired by unsatisfied judgment claims, has
30 been furnished.

1 If a final judgment is entered against the savings assignment, the
2 director shall, upon receipt of a certified copy of the final judgment,
3 order the judgment to be paid from the amount of the savings
4 assignment.

5 NEW SECTION. **Sec. 7.** DISCLOSURE STATEMENT. (1) An athlete agent
6 shall file with the department a disclosure statement which contains
7 all of the following:

8 (a) The educational background, training, and experience of the
9 athlete agent with respect to practice as an athlete agent;

10 (b) The business name and address of each athlete agent firm
11 represented by the athlete agent, and the license number of the athlete
12 agent and athlete agent firm in this or any other state;

13 (c) A record of all felony convictions, or misdemeanor convictions
14 punishable by imprisonment, of the athlete agent and each owner,
15 partner, officer, or shareholder of ten percent or more of the stock of
16 the athlete agent firm represented by the athlete agent; and

17 (d) A record of any sanctions issued to or disciplinary actions
18 taken against the athlete agent, the athlete agent firm, or any
19 athlete, professional sport team, or institution of higher education as
20 a result of the conduct of the athlete agent or the athlete agent firm.

21 (2) An athlete agent shall file an updated disclosure statement
22 with the department within thirty days of a change in the information
23 required under subsection (1) (b), (c), or (d) of this section.

24 (3) Before entering into negotiations for an agent contract, an
25 athlete agent shall give to the prospective client a copy of the
26 current disclosure statement on file with the department.

27 (4) The department shall make disclosure statements available to
28 the public for inspection and copying.

1 NEW SECTION. **Sec. 8.** EXAMINATIONS. An individual applying for an
2 athlete agent license must pass an examination. Examinations for
3 licensure under this chapter shall be conducted at such times and
4 places as the director determines appropriate. Examinations shall
5 consist of written questions designed to reasonably measure the
6 applicant's knowledge of ethics, agency law, contract law, the rules
7 and regulations for the conduct of intercollegiate and interscholastic
8 athletics, this chapter, and the rules adopted to administer these
9 laws. The examination fee, as established by rule, must accompany the
10 license application.

11 NEW SECTION. **Sec. 9.** INACTIVE LICENSES. (1) An individual may
12 place his or her license on inactive status. The holder of an inactive
13 license shall not practice as an athlete agent in this state without
14 first activating the license.

15 (2) The renewal fee for an inactive license shall be established by
16 the director pursuant to RCW 43.24.086. Failure to renew an inactive
17 license results in cancellation in the same manner as an active
18 license.

19 (3) An inactive license may be placed in an active status upon
20 compliance with the rules established by the director.

21 (4) The provisions of this chapter relating to the denial,
22 suspension, and revocation of a license apply to an inactive license,
23 except that when proceedings to suspend or revoke an inactive license
24 are initiated, the license shall remain inactive until the proceedings
25 are completed.

26 NEW SECTION. **Sec. 10.** RENEWALS. The director shall establish by
27 rule the requirements for renewal of licenses. The director shall
28 establish a renewal and late renewal penalty fee as provided in RCW

1 43.24.086. Failure to renew invalidates the license and all privileges
2 granted by the license. The director shall determine by rule whether
3 a license shall be canceled for failure to renew and shall establish
4 procedures and requirements for relicensure.

5 NEW SECTION. **Sec. 11.** CONTRACTS. (1) An athlete agent firm shall
6 file with the department a copy of each agent contract or professional
7 sport services contract not more than thirty days after the contract is
8 signed by both parties. The contract shall embody all agreements
9 between the parties. The director may determine by rule the minimum
10 provisions for contract terms to be addressed in each contract. The
11 department shall make the contracts available to the public for
12 inspection and copying.

13 (2) An athlete agent firm shall maintain a complete record of all
14 agent contracts and professional sport services contracts and financial
15 transactions involving those contracts and shall permit the department
16 to inspect those books and records during customary business hours upon
17 request.

18 (3) An athlete agent or athlete agent firm shall not do either of
19 the following:

20 (a) Induce a student athlete to enter into an agent contract or
21 professional sport services contract before the student athlete's
22 eligibility for collegiate athletics expires or before the student
23 athlete has declared that his or her eligibility will expire; or

24 (b) Enter into an agreement whereby the athletic agent offers
25 anything of value to an employee of an institution of higher education
26 in return for the referral of a student athlete by that employee.

27 (4) Each agent contract shall contain such information concerning
28 the surety bond or savings assignment disclosure as the director
29 determines by rule is appropriate.

1 (5) Each agent contract or professional sport services contract
2 shall contain such provisions as the director determines by rule are
3 necessary for the client to make an informed decision regarding the
4 contract.

5 NEW SECTION. **Sec. 12.** DISCIPLINARY ACTION. Any applicant or
6 licensee under this chapter may be subject to disciplinary action by
7 the director if the licensee, applicant, owner, officer, director, or
8 authorized athlete agent:

9 (1) Has been found guilty of a crime related to the practice of an
10 athlete agent or athlete agent firm;

11 (2) Has made a material misstatement or omission in connection with
12 an application or any document required by this chapter;

13 (3) Has engaged in false or misleading advertising;

14 (4) Has committed fraud, deceit, deception, or made a false
15 statement or misrepresentation designed to deceive or persuade a person
16 to sign or induce another to sign an agent contract or professional
17 sport services contract or to agree to any terms within or outside the
18 contract;

19 (5) Has been convicted within the last ten years of forgery,
20 embezzlement, obtaining money under false pretenses, extortion,
21 criminal conspiracy, fraud, theft, or other similar offense;

22 (6) Failed to cooperate with the department in any investigation or
23 disciplinary action;

24 (7) Failed to pay an administrative fine prior to renewal of a
25 license;

26 (8) Had a license to practice as an athlete agent or athlete agent
27 firm revoked by another state; or

28 (9) Has violated any provision of this chapter or any rule adopted
29 under it.

1 NEW SECTION. **Sec. 13.** CIVIL PENALTIES. Pursuant to chapter 34.05
2 RCW, the director may assess one or more of the following penalties
3 against a licensee or applicant who has been found in violation of this
4 chapter or a rule adopted under this chapter:

5 (1) Revocation of a license;

6 (2) Suspension of a license;

7 (3) Imposition of a fine of up to ten thousand dollars for each
8 offense;

9 (4) Denial of a license or the renewal of a license;

10 (5) A requirement that restitution be made;

11 (6) Issuance of a license with special conditions, limitations, or
12 requirements;

13 (7) Issuance of a written reprimand or letter of censure as a part
14 of the license record of a licensee. However, the final order shall
15 stipulate a time following which a person may petition the department
16 to remove the reprimand or censure from the file;

17 (8) Issuance of a cease and desist order; or

18 (9) Imposition of a requirement that the bond required by this
19 chapter be increased and maintained for a specific period of time.

20 NEW SECTION. **Sec. 14.** CEASE AND DESIST ORDERS. (1) The
21 department may review the operations of licensees or persons who may be
22 required to be licensed and shall investigate complaints received.

23 (2) The director may issue a cease and desist order to any person
24 determined by the department to be acting as an athlete agent or
25 athlete agent firm without a license under this chapter.

26 NEW SECTION. **Sec. 15.** UNLAWFUL GIFTS. (1) Except as provided in
27 subsection (3) of this section, a person shall not give, offer,
28 promise, or attempt to give any money or other thing of value to a

1 student athlete or immediate family member of a student athlete to
2 induce, encourage, or reward a student athlete's participation in a
3 professional sport services contract.

4 (2) A person shall not aid or abet any act described in subsection
5 (1) of this section.

6 (3) As used in subsection (1) of this section, "person" does not
7 include any of the following:

8 (a) An institution of higher education or any of its officers or
9 employees if the institution, officer, or employee is acting in
10 accordance with an official written policy of the institution which is
11 in compliance with rules adopted by the director;

12 (b) A person awarding an intercollegiate athletic award approved or
13 administered by the institution of higher education attended by the
14 student; or

15 (c) An immediate family member of the student athlete.

16 (4) A person who engages in conduct knowing or having reason to
17 know that the conduct is in violation of this section is guilty of a
18 class C felony, punishable by a fine of not more than ten thousand
19 dollars or not more than five years imprisonment, or both.

20 NEW SECTION. **Sec. 16.** UNLAWFUL SOLICITATIONS. (1) Except as
21 provided in subsection (2) of this section, a student athlete or member
22 of his or her immediate family shall not solicit or accept money or
23 anything of value for any of the purposes described in section 15 of
24 this act. A person shall not aid or abet any act described in this
25 subsection.

26 (2) This section does not apply to money or other things of value
27 that a student athlete received from the following:

28 (a) An institution of higher education, its officers, or employees
29 if the institution, officer, or employee offered money, an award or

1 anything of value in accordance with an official written policy of the
2 institution which is in compliance with rules adopted by the
3 department; or

4 (b) A member of the immediate family of the student athlete.

5 (3) A person who engages in conduct knowing or having reason to
6 know that the conduct violates this section is guilty of a gross
7 misdemeanor punishable by a fine of not more than five thousand
8 dollars.

9 NEW SECTION. **Sec. 17.** CRIMINAL PENALTIES. (1) In addition to the
10 penalties prescribed in section 13 of this act, a person who does any
11 of the following is guilty of a class C felony, punishable by
12 imprisonment for not more than five years, a fine of not more than ten
13 thousand dollars, or both:

14 (a) Acts as or offers to act as an athlete agent or athlete agent
15 firm without a license under this chapter after the suspension or
16 revocation of his or her license; or

17 (b) Interferes with, impedes, or obstructs an investigation
18 conducted by the department under this chapter.

19 (2) The department or the attorney general may petition a court for
20 injunctive relief or other remedies at law to enforce an order of the
21 department, this chapter, and rules adopted under this chapter.

22 NEW SECTION. **Sec. 18.** RESTITUTION. Any athlete agent or student
23 athlete who violates this chapter may be required to make restitution
24 to the institution of higher education for any damages suffered as a
25 result of the violation.

26 NEW SECTION. **Sec. 19.** IMMUNITY. The director and individuals
27 acting on the behalf of the director are immune from suit in any

1 action, civil or criminal, based on any acts performed in the course of
2 their duties.

3 NEW SECTION. **Sec. 20.** TITLE. This chapter may be known as the
4 athlete agent practice act.

5 NEW SECTION. **Sec. 21.** CAPTIONS. Section captions used in this
6 chapter do not constitute part of the law.

7 NEW SECTION. **Sec. 22.** EFFECTIVE DATE. Sections 2 and 5 of this
8 act shall take effect July 1, 1992.

9 NEW SECTION. **Sec. 23.** SEVERABILITY. If any provision of this act
10 or its application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 24.** LEGISLATIVE DIRECTIVE. Sections 1 through
14 21 of this act shall constitute a new chapter in Title 18 RCW.

15 NEW SECTION. **Sec. 25.** APPROPRIATION. There is appropriated from
16 the general fund to the department of licensing for the biennium ending
17 June 30, 1993, the sum of dollars, or so much thereof as may
18 be necessary to carry out the purposes of this act.