
SUBSTITUTE SENATE BILL 5479

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senator Jacobsen; by request of Washington
Uniform Legislation Commission)

READ FIRST TIME 02/27/01.

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

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

4 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be cited as
5 the Uniform Athlete Agents Act.

6 NEW SECTION. **Sec. 2.** DEFINITIONS. In this chapter:

7 (1) "Agency contract" means an agreement in which a student-athlete
8 authorizes a person to negotiate or solicit on behalf of the student-
9 athlete a professional-sports-services contract or an endorsement
10 contract.

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

1 (3) "Athletic director" means an individual responsible for
2 administering the overall athletic program of an educational
3 institution or, if an educational institution has separately
4 administered athletic programs for male students and female students,
5 the athletic program for males or the athletic program for females, as
6 appropriate.

7 (4) "Contact" means a communication, direct or indirect, between an
8 athlete agent and a student-athlete, to recruit or solicit the student-
9 athlete to enter into an agency contract.

10 (5) "Department" means the department of licensing.

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

16 (7) "Intercollegiate sport" means a sport played at the collegiate
17 level for which eligibility requirements for participation by a
18 student-athlete are established by a national association for the
19 promotion or regulation of collegiate athletics.

20 (8) "Licensure" means licensure as an athlete agent pursuant to
21 this chapter.

22 (9) "Person" means an individual, corporation, business trust,
23 estate, trust, partnership, limited liability company, association,
24 joint venture, or government; governmental subdivision, agency, or
25 instrumentality; public corporation; or any other legal or commercial
26 entity.

27 (10) "Professional-sports-services contract" means an agreement
28 under which an individual is employed or agrees to render services as
29 a player on a professional sports team, with a professional sports
30 organization, or as a professional athlete.

31 (11) "Record" means information that is inscribed on a tangible
32 medium or that is stored in an electronic or other medium and is
33 retrievable in perceivable form.

34 (12) "State" means a state of the United States, the District of
35 Columbia, Puerto Rico, the United States Virgin Islands, or any
36 territory or insular possession subject to the jurisdiction of the
37 United States.

38 (13) "Student-athlete" means an individual who engages in, is
39 eligible to engage in, or may be eligible in the future to engage in,

1 any intercollegiate sport. If an individual is permanently ineligible
2 to participate in a particular intercollegiate sport, the individual is
3 not a student-athlete for purposes of that sport.

4 NEW SECTION. **Sec. 3.** ADMINISTRATION--SERVICE OF PROCESS--
5 SUBPOENAS. (1) The department shall administer this chapter.

6 (2) By engaging in the business of an athlete agent in this state,
7 a nonresident individual appoints the director of the department as the
8 individual's agent to accept service of process in any civil action
9 related to the individual's business as an athlete agent in this state.

10 (3) The department may issue subpoenas for any relevant material
11 under this chapter.

12 NEW SECTION. **Sec. 4.** ATHLETE AGENTS--LICENSURE REQUIRED. (1)
13 Except as otherwise provided in subsection (2) of this section, an
14 individual may not act as an athlete agent in this state before being
15 issued a certificate of licensure under section 6 or 8 of this act.

16 (2) An individual may act as an athlete agent before being issued
17 a certificate of licensure for all purposes except signing an agency
18 contract if:

19 (a) A student-athlete or another acting on behalf of the student-
20 athlete initiates communication with the individual; and

21 (b) Within seven days after an initial act as an athlete agent, the
22 individual submits an application for licensure as an athlete agent in
23 this state.

24 (3) An agency contract resulting from conduct in violation of this
25 section is void. The athlete agent shall return any consideration
26 received under the contract.

27 NEW SECTION. **Sec. 5.** LICENSURE AS ATHLETE AGENT--FORM--
28 REQUIREMENTS. (1) An applicant for licensure shall submit an
29 application for licensure to the department in a form prescribed by the
30 department. An application filed under this section is a public
31 record. Except as otherwise provided in subsection (2) of this
32 section, the application must be in the name of an individual and
33 signed by the applicant under penalty of perjury and must state or
34 contain:

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

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

3 (c) Any business or occupation engaged in by the applicant for the
4 five years next preceding the date of submission of the application;

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

6 (i) Formal training as an athlete agent;

7 (ii) Practical experience as an athlete agent; and

8 (iii) Educational background relating to the applicant's activities
9 as an athlete agent;

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

12 (f) The name, sport, and last known team for each individual for
13 whom the applicant provided services as an athlete agent during the
14 five years next preceding the date of submission of the application;

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

16 (i) With respect to the athlete agent's business if it is not a
17 corporation, the partners, officers, associates, or profit-sharers; and

18 (ii) With respect to a corporation employing the athlete agent, the
19 officers, directors, and any shareholder of the corporation with a five
20 percent or greater interest;

21 (h) Whether the applicant or any other person named pursuant to (g)
22 of this subsection has been convicted of a crime that, if committed in
23 this state, would be a felony or other crime involving moral turpitude,
24 and identify the crime;

25 (i) Whether there has been any administrative or judicial
26 determination that the applicant or any other person named pursuant to
27 (g) of this subsection has made a false, misleading, deceptive, or
28 fraudulent representation;

29 (j) Any instance in which the conduct of the applicant or any other
30 person named pursuant to (g) of this subsection resulted in the
31 imposition of a sanction, suspension, or declaration of ineligibility
32 to participate in an interscholastic or intercollegiate athletic event
33 on a student-athlete or educational institution;

34 (k) Any sanction, suspension, or disciplinary action taken against
35 the applicant or any other person named pursuant to (g) of this
36 subsection arising out of occupational or professional conduct; and

37 (l) Whether there has been any denial of an application for,
38 suspension or revocation of, or refusal to renew, the registration or

1 licensure of the applicant or any other person named pursuant to (g) of
2 this subsection as an athlete agent in any state.

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

11 (a) Was submitted in the other state within the six months next
12 preceding the submission of the application in this state and the
13 applicant certifies the information contained in the application is
14 current;

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

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

19 NEW SECTION. **Sec. 6.** CERTIFICATE OF LICENSURE--ISSUANCE OR
20 DENIAL--RENEWAL. (1) Except as otherwise provided in subsection (3) of
21 this section, the department shall issue a certificate of licensure to
22 an individual who complies with section 5(1) of this act.

23 (2) Except as otherwise provided in subsection (3) of this section,
24 the department shall issue a certificate of licensure to an individual
25 whose application has been accepted under section 5(2) of this act.

26 (3) The department may refuse to issue a certificate of licensure
27 if the department determines that the applicant has engaged in conduct
28 that has a significant adverse effect on the applicant's fitness to
29 serve as an athlete agent. In making the determination, the department
30 may consider whether the applicant has:

31 (a) Been convicted of a crime that, if committed in this state,
32 would be a felony or other crime involving moral turpitude;

33 (b) Made a materially false, misleading, deceptive, or fraudulent
34 representation as an athlete agent or in the application;

35 (c) Engaged in conduct that would disqualify the applicant from
36 serving in a fiduciary capacity;

37 (d) Engaged in conduct prohibited by section 14 of this act;

1 (e) Had a registration or licensure as an athlete agent suspended,
2 revoked, or denied or been refused renewal of registration or licensure
3 in any state;

4 (f) Engaged in conduct or failed to engage in conduct the
5 consequence of which was that a sanction, suspension, or declaration of
6 ineligibility to participate in an interscholastic or intercollegiate
7 athletic event was imposed on a student-athlete or educational
8 institution; or

9 (g) Engaged in conduct that significantly adversely reflects on the
10 applicant's credibility, honesty, or integrity.

11 (4) In making a determination under subsection (3) of this section,
12 the department shall consider:

13 (a) How recently the conduct occurred;

14 (b) The nature of the conduct and the context in which it occurred;
15 and

16 (c) Any other relevant conduct of the applicant.

17 (5) An athlete agent may apply to renew licensure by submitting an
18 application for renewal in a form prescribed by the department. An
19 application filed under this section is a public record. The
20 application for renewal must be signed by the applicant under penalty
21 of perjury and must contain current information on all matters required
22 in an original application for licensure.

23 (6) An individual who has submitted an application for renewal of
24 registration or licensure in another state, in lieu of submitting an
25 application for renewal in the form prescribed pursuant to subsection
26 (5) of this section, may file a copy of the application for renewal and
27 a valid certificate of registration or licensure from the other state.
28 The department shall accept the application for renewal from the other
29 state as an application for renewal in this state if the application to
30 the other state:

31 (a) Was submitted in the other state within the last six months and
32 the applicant certifies the information contained in the application
33 for renewal is current;

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

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

38 (7) A certificate of licensure or a renewal of licensure is valid
39 for two years.

1 NEW SECTION. **Sec. 7.** SUSPENSION, REVOCATION, OR REFUSAL TO RENEW
2 LICENSURE. (1) The department may suspend, revoke, or refuse to renew
3 licensure for conduct that would have justified denial of licensure
4 under section 6(3) of this act.

5 (2) The department may deny, suspend, revoke, or refuse to renew
6 licensure only after proper notice and an opportunity for a hearing.
7 Chapter 34.05 RCW, the administrative procedure act, applies to this
8 chapter.

9 NEW SECTION. **Sec. 8.** TEMPORARY LICENSURE. The department may
10 issue a temporary certificate of licensure while an application for
11 licensure or renewal is pending. A temporary license is valid for no
12 more than sixty days from the date of application for licensure.

13 NEW SECTION. **Sec. 9.** LICENSURE AND RENEWAL FEE. (1) An
14 application for licensure or renewal of licensure must be accompanied
15 by a fee in the following amount:

16 (a) Three hundred dollars for an initial application for licensure;

17 (b) Three hundred dollars for an application for licensure based
18 upon a certificate of registration or licensure issued by another
19 state;

20 (c) Three hundred dollars for an application for renewal of
21 licensure; or

22 (d) Three hundred dollars for an application for renewal of
23 licensure based upon an application for renewal of registration or
24 licensure submitted in another state.

25 (2) The amount of fees specified in this section are exempt from
26 the requirements of RCW 43.24.086 and shall expire on December 31,
27 2003. After December 31, 2003, the amount of the fees shall be
28 established by the department by rule pursuant to RCW 43.24.086.

29 NEW SECTION. **Sec. 10.** FORM OF CONTRACT. (1) An agency contract
30 must be in a record signed by the parties.

31 (2) An agency contract must state or contain:

32 (a) The amount and method of calculating the consideration to be
33 paid by the student-athlete for services to be provided by the athlete
34 agent under the contract and any other consideration the athlete agent
35 has received or will receive from any other source for entering into
36 the contract or for providing the services;

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

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

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

8 (e) The duration of the contract; and

9 (f) The date of execution.

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

13 **WARNING TO STUDENT-ATHLETE**

14 **IF YOU SIGN THIS CONTRACT:**

15 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE**
16 **IN YOUR SPORT;**

17 (2) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR**
18 **ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN SEVENTY-TWO**
19 **HOURS PRIOR TO ENTERING INTO AN AGENCY CONTRACT AND AGAIN WITHIN**
20 **SEVENTY-TWO HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

21 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN FOURTEEN DAYS AFTER SIGNING**
22 **IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**

23 (4) An agency contract that does not conform to this section is
24 voidable by the student-athlete.

25 (5) The athlete agent shall give a copy of the signed agency
26 contract to the student-athlete at the time of signing.

27 NEW SECTION. **Sec. 11.** NOTICE TO EDUCATIONAL INSTITUTION. (1)
28 Within seventy-two hours prior to entering into an agency contract, the
29 athlete agent shall give notice in a record of the existence of the
30 contract to the athletic director of the educational institution at
31 which the student-athlete is enrolled or the athlete agent has
32 reasonable grounds to believe the student-athlete intends to enroll.

33 (2) Within seventy-two hours after entering into an agency contract
34 or before the next scheduled athletic event in which the student-
35 athlete may participate, whichever occurs first, the athlete agent
36 shall give notice in a record of the existence of the contract to the
37 athletic director of the educational institution at which the student-

1 athlete is enrolled or the athlete agent has reasonable grounds to
2 believe the student-athlete intends to enroll.

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

9 NEW SECTION. **Sec. 12.** STUDENT-ATHLETE'S RIGHT TO CANCEL. (1) A
10 student-athlete may cancel an agency contract by giving notice in a
11 record to the athlete agent of the cancellation within fourteen days
12 after the contract is signed.

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

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

19 NEW SECTION. **Sec. 13.** REQUIRED RECORDS. (1) An athlete agent
20 shall retain the following records for a period of five years:

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

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

24 (c) Any direct costs incurred by the athlete agent in the
25 recruitment or solicitation of a student-athlete.

26 (2) Records required by subsection (1) of this section to be
27 retained are open to inspection by the department during normal
28 business hours.

29 NEW SECTION. **Sec. 14.** PROHIBITED ACTS. (1) An athlete agent may
30 not do any of the following with the intent to induce a student-athlete
31 to enter into an agency contract:

32 (a) Give any materially false or misleading information or make a
33 materially false promise or representation;

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

1 (c) Furnish anything of value to any individual other than the
2 student-athlete or another licensed athlete agent.

3 (2) An athlete agent may not intentionally:

4 (a) Initiate contact with a student-athlete unless licensed under
5 this chapter;

6 (b) Refuse or willfully fail to retain or permit inspection of the
7 records required by section 13 of this act;

8 (c) Violate section 4 of this act by failing to be licensed;

9 (d) Provide materially false or misleading information in an
10 application for licensure or renewal of licensure;

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

12 (f) Fail to notify a student-athlete prior to the student-athlete's
13 signing an agency contract for a particular sport that the signing by
14 the student-athlete may make the student-athlete ineligible to
15 participate as a student-athlete in that sport.

16 NEW SECTION. **Sec. 15.** CRIMINAL PENALTIES. The commission of any
17 act prohibited by section 14 of this act by an athlete agent is a class
18 C felony punishable according to chapter 9A.20 RCW. In addition to any
19 criminal penalties, the court may assess a civil penalty of up to ten
20 thousand dollars for a violation of section 14 of this act.

21 NEW SECTION. **Sec. 16.** CIVIL REMEDIES. (1) An educational
22 institution has a right of action against an athlete agent or a former
23 student-athlete for damages caused by a violation of this chapter. In
24 an action under this section, the court may award to the prevailing
25 party costs and reasonable attorneys' fees.

26 (2) Damages of an educational institution under subsection (1) of
27 this section include losses and expenses incurred because, as a result
28 of the activities of an athlete agent or former student-athlete, the
29 educational institution was injured by a violation of this chapter or
30 was penalized, disqualified, or suspended from participation in
31 athletics by a national association for the promotion and regulation of
32 athletics, by an athletic conference, or by reasonable self-imposed
33 disciplinary action taken to mitigate sanctions.

34 (3) A right of action under this section does not accrue until the
35 educational institution discovers or by the exercise of reasonable
36 diligence would have discovered the violation by the athlete agent or
37 former student-athlete.

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

3 (5) This chapter does not restrict rights, remedies, or defenses of
4 any person under law or equity.

5 NEW SECTION. **Sec. 17.** ADMINISTRATIVE PENALTY. The department may
6 assess a civil penalty against an athlete agent not to exceed twenty-
7 five thousand dollars for a violation of this chapter.

8 NEW SECTION. **Sec. 18.** DEPARTMENT POWERS AND DUTIES. In addition
9 to any other duties imposed by statute, the department shall have the
10 following powers and duties: To adopt rules necessary to implement
11 this chapter; to investigate alleged violations of this chapter and
12 consumer complaints involving the practice of athlete-agents; to issue
13 subpoenas, orders, and agreements necessary to enforce this chapter; to
14 issue cease and desist orders for violations of this chapter; to
15 conduct disciplinary proceedings in accordance with chapter 34.05 RCW;
16 to impose sanctions and assess fines for violations of this chapter or
17 any rules adopted under the director's authority; to delegate in
18 writing to a designee the authority to issue subpoenas, statements of
19 charges, and any other documents necessary to enforce this chapter; and
20 to employ such administrative, investigative, and clerical staff needed
21 to implement this chapter.

22 NEW SECTION. **Sec. 19.** APPLICATION AND CONSTRUCTION. In applying
23 and construing this uniform act, consideration must be given to the
24 need to promote uniformity of the law with respect to its subject
25 matter of this chapter among states that enact it.

26 NEW SECTION. **Sec. 20.** SEVERABILITY. If any provision of this act
27 or its application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 21.** CAPTIONS NOT LAW. Captions used in this
31 chapter are not any part of the law.

32 NEW SECTION. **Sec. 22.** Sections 1 through 21 of this act
33 constitute a new chapter in Title 18 RCW.

1 NEW SECTION. **Sec. 23.** This act takes effect January 1, 2002, but
2 the department of licensing may immediately take such steps as are
3 necessary to ensure that this act is fully implemented on its effective
4 date.

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