

CERTIFICATION OF ENROLLMENT

SENATE BILL 6457

Chapter 131, Laws of 2002

57th Legislature
2002 Regular Session

ATHLETE AGENT ACT

EFFECTIVE DATE: 6/13/02

Passed by the Senate March 11, 2002
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 5, 2002
YEAS 97 NAYS 0

FRANK CHOPP

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6457** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved March 26, 2002

FILED

March 26, 2002 - 9:06 a.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6457

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature

2002 Regular Session

By Senators Carlson and Jacobsen

Read first time 01/17/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to athlete agents; adding a new chapter to Title 19
2 RCW; and prescribing penalties.

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 legal
15 guardian of the student-athlete or an individual acting solely on
16 behalf of a professional sports team or professional sports
17 organization. The term includes an individual who represents to the
18 public that the individual 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) "Endorsement contract" means an agreement under which a
11 student-athlete is employed or receives consideration to use on behalf
12 of the other party any value that the student-athlete may have because
13 of publicity, reputation, following, or fame obtained because of
14 athletic ability or performance.

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

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

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

28 (9) "Record" means information that is inscribed on a tangible
29 medium or that is stored in an electronic or other medium and is
30 retrievable in perceivable form.

31 (10) "State" means a state of the United States, the District of
32 Columbia, Puerto Rico, the United States Virgin Islands, or any
33 territory or insular possession subject to the jurisdiction of the
34 United States.

35 (11) "Student-athlete" means an individual who engages in, is
36 eligible to engage in, or may be eligible in the future to engage in,
37 any intercollegiate sport. If an individual is permanently ineligible
38 to participate in a particular intercollegiate sport, the individual is
39 not a student-athlete for purposes of that sport.

1 NEW SECTION. **Sec. 3.** SERVICE OF PROCESS. By engaging in the
2 business of an athlete agent in this state, a nonresident individual
3 appoints the secretary of state as the individual's agent to accept
4 service of process in any civil action related to the individual's
5 business as an athlete agent in this state.

6 NEW SECTION. **Sec. 4.** ATHLETE AGENTS--DELIVERY OF DISCLOSURE FORM
7 REQUIRED. (1) Except as otherwise provided in subsection (2) of this
8 section, an individual may not act as an athlete agent in this state
9 unless on the day of initial contact with any student-athlete the
10 athlete agent delivers to the student-athlete the athlete agent
11 disclosure form as required by section 5 of this act.

12 (2) An individual may act as an athlete agent before delivering an
13 athlete agent disclosure form for all purposes except signing an agency
14 contract if:

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

17 (b) Within seven days after an initial act as an athlete agent, the
18 individual delivers an athlete agent disclosure form to the student-
19 athlete.

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

23 NEW SECTION. **Sec. 5.** ATHLETE AGENT DISCLOSURE FORM--
24 REQUIREMENTS. (1) The athlete agent disclosure form must be in a
25 record executed in the name of an individual and signed by the athlete
26 agent under penalty of perjury and, except as otherwise provided in
27 subsection (2) of this section, must state or contain:

28 (a) The name of the athlete agent and the address of the athlete
29 agent's principal place of business;

30 (b) The name of the athlete agent's business or employer, if
31 applicable;

32 (c) Any business or occupation engaged in by the athlete agent for
33 the five years next preceding the date of execution of the athlete
34 agent disclosure form;

35 (d) A description of the athlete agent's:

36 (i) Formal training as an athlete agent;

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

1 (iii) Educational background relating to the athlete agent's
2 activities as an athlete agent;

3 (e) The names and addresses of three individuals not related to the
4 athlete agent who are willing to serve as references;

5 (f) The name, sport, and last known team for each individual for
6 whom the athlete agent provided services as an athlete agent during the
7 five years next preceding the date of execution of the athlete agent
8 disclosure form;

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

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

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

15 (h) Whether the athlete agent or any other person named pursuant to
16 (g) of this subsection has been convicted of a crime that, if committed
17 in this state, would be a felony or other crime involving moral
18 turpitude, and identify the crime;

19 (i) Whether there has been any administrative or judicial
20 determination that the athlete agent or any other person named pursuant
21 to (g) of this subsection has made a false, misleading, deceptive, or
22 fraudulent representation;

23 (j) Any instance in which the conduct of the athlete agent or any
24 other person named pursuant to (g) of this subsection resulted in the
25 imposition of a sanction, suspension, or declaration of ineligibility
26 to participate in an interscholastic or intercollegiate athletic event
27 on a student-athlete or educational institution;

28 (k) Any sanction, suspension, or disciplinary action taken against
29 the athlete agent or any other person named pursuant to (g) of this
30 subsection arising out of occupational or professional conduct; and

31 (l) Whether there has been any denial of an application for,
32 suspension or revocation of, or refusal to renew, the registration or
33 licensure of the athlete agent or any other person named pursuant to
34 (g) of this subsection as an athlete agent in any state.

35 (2) An individual who has submitted an application for, and
36 received a certificate of or a renewal of a certificate of,
37 registration or licensure as an athlete agent in another state may
38 submit a copy of the application and a valid certificate of
39 registration or licensure from the other state in lieu of submitting an

1 athlete agent disclosure form in the form prescribed pursuant to
2 subsection (1) of this section, but only if the application to the
3 other state:

4 (a) Was submitted in the other state within the six months next
5 preceding the date of delivery of the athlete agent disclosure form in
6 this state and the athlete agent certifies the information contained in
7 the application is current;

8 (b) Contains information substantially similar to or more
9 comprehensive than that required in an athlete agent disclosure form
10 under subsection (1) of this section; and

11 (c) Was signed by the athlete agent under penalty of perjury.

12 NEW SECTION. **Sec. 6.** DISQUALIFICATIONS. No person may engage in
13 the business of an athlete agent who has:

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

16 (2) Made a materially false, misleading, deceptive, or fraudulent
17 representation as an athlete agent or in the application for licensure
18 or registration as an athlete agent in another state;

19 (3) Engaged in conduct prohibited by section 11 of this act;

20 (4) Had a registration or licensure as an athlete agent suspended,
21 revoked, or denied or been refused renewal of registration or licensure
22 in any state; or

23 (5) Engaged in conduct or failed to engage in conduct the
24 consequence of which was that a sanction, suspension, or declaration of
25 ineligibility to participate in an interscholastic or intercollegiate
26 athletic event was imposed on a student-athlete or educational
27 institution.

28 NEW SECTION. **Sec. 7.** FORM OF CONTRACT. (1) An agency contract
29 must be in a record signed by the parties.

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

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

36 (b) The name of any person other than the athlete agent who will be
37 compensated because the student athlete signed the agency contract;

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

3 (d) A description of the services to be provided to the student-
4 athlete;

5 (e) The duration of the contract; and

6 (f) The date of execution.

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

10 **WARNING TO STUDENT-ATHLETE**

11 **IF YOU SIGN THIS CONTRACT:**

12 (a) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE**
13 **IN YOUR SPORT;**

14 (b) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR**
15 **ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, AT LEAST SEVENTY-**
16 **TWO HOURS PRIOR TO ENTERING INTO AN AGENCY CONTRACT AND AGAIN WITHIN**
17 **SEVENTY-TWO HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

18 (c) **YOU MAY CANCEL THIS CONTRACT WITHIN FOURTEEN DAYS AFTER SIGNING**
19 **IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**

20 (4) A copy of the athlete agent disclosure form delivered to the
21 student-athlete shall be attached to the agency contract.

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

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

26 NEW SECTION. **Sec. 8.** NOTICE TO EDUCATIONAL INSTITUTION. (1) At
27 least seventy-two hours prior to entering into an agency contract, the
28 athlete agent shall give notice in a record of the existence of the
29 contract and shall provide a copy of the athlete agent disclosure form
30 to the athletic director of the educational institution at which the
31 student-athlete is enrolled or the athlete agent has reasonable grounds
32 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 and
37 shall provide a copy of the athlete agent disclosure form to the

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

4 (3) At least seventy-two hours prior to entering into an agency
5 contract, the student-athlete shall give notice in a record of the
6 existence of the contract and shall provide a copy of the athlete agent
7 disclosure form to the athletic director of the educational institution
8 at which the student-athlete is enrolled.

9 (4) Within seventy-two hours after entering into an agency contract
10 or before the next athletic event in which the student-athlete may
11 participate, whichever occurs first, the student-athlete shall inform
12 the athletic director of the educational institution at which the
13 student-athlete is enrolled that he or she has entered into an agency
14 contract and shall provide a copy of the athlete agent disclosure form.

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

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

21 (3) If a student-athlete cancels an agency contract, the student-
22 athlete is not required to pay any consideration under the contract or
23 to return any consideration received from the agent to induce the
24 student-athlete to enter into the contract.

25 NEW SECTION. **Sec. 10.** REQUIRED RECORDS. (1) An athlete agent
26 shall retain the following records for a period of five years:

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

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

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

32 (2) Records required by subsection (1) of this section to be
33 retained are subject to subpoena in a judicial proceeding.

34 NEW SECTION. **Sec. 11.** PROHIBITED ACTS. (1) An athlete agent may
35 not do any of the following with the intent to induce a student-athlete
36 to enter into an agency contract:

1 (a) Give any materially false or misleading information or make a
2 materially false promise or representation;

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

5 (c) Furnish anything of value to any individual other than the
6 student-athlete or another registered athlete agent.

7 (2) An athlete agent may not intentionally:

8 (a) Initiate contact with a student-athlete unless providing the
9 student-athlete with the athlete agent disclosure form as provided in
10 section 4 of this act;

11 (b) Refuse or willfully fail to retain or produce in response to
12 subpoena the records required by section 10 of this act;

13 (c) Fail to disclose information required by section 5 of this act;

14 (d) Provide materially false or misleading information in an
15 athlete agent disclosure form;

16 (e) Predate or postdate an agency contract;

17 (f) Fail to notify a student-athlete prior to the student-athlete's
18 signing an agency contract for a particular sport that the signing by
19 the student-athlete may make the student-athlete ineligible to
20 participate as a student-athlete in that sport;

21 (g) Ask or allow a student-athlete to waive or attempt to waive
22 rights under this chapter;

23 (h) Fail to give notice required under section 8 of this act; or

24 (i) Engage in the business of an athlete agent in this state: (A)
25 At any time after conviction under section 12 of this act; or (B)
26 within five years of entry of a civil judgment under section 13 of this
27 act.

28 NEW SECTION. **Sec. 12.** CRIMINAL PENALTIES. The commission of any
29 act prohibited by section 11 of this act by an athlete agent is a class
30 C felony punishable according to chapter 9A.20 RCW. In addition to any
31 criminal penalties, the court may assess a civil penalty of up to ten
32 thousand dollars for a violation of section 11 of this act.

33 NEW SECTION. **Sec. 13.** CIVIL REMEDIES. (1) An educational
34 institution has a right of action against an athlete agent or a former
35 student-athlete for damages caused by a violation of this chapter. In
36 an action under this section, the court may award to the prevailing
37 party costs and reasonable attorneys' fees.

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

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

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

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

17 NEW SECTION. **Sec. 14.** APPLICATION AND CONSTRUCTION. In applying
18 and construing this uniform act, consideration must be given to the
19 need to promote uniformity of the law with respect to its subject
20 matter of this chapter among states that enact it.

21 NEW SECTION. **Sec. 15.** SEVERABILITY. If any provision of this act
22 or its application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 16.** CAPTIONS NOT LAW. Captions used in this
26 chapter are not any part of the law.

27 NEW SECTION. **Sec. 17.** Sections 1 through 16 of this act
28 constitute a new chapter in Title 19 RCW.

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor March 26, 2002.

Filed in Office of Secretary of State March 26, 2002.