

Assembly Bill No. 253—Assemblymen Cegavske, Hettrick, Von Tobel, Brown, Anderson, Angle, Arberry, Bache, Berman, Brower, Buckley, Carpenter, Chowning, Claborn, Collins, de Braga, Dini, Freeman, Gibbons, Giunchigliani, Goldwater, Gustavson, Humke, Koivisto, Lee, Leslie, Manendo, Marvel, McClain, Neighbors, Nolan, Ocegüera, Parks, Parnell, Perkins, Price, Smith, Tiffany and Williams

Joint Sponsors: Senators O'Donnell, Neal, Carlton, McGinness, Titus and Washington

CHAPTER.....

AN ACT relating to intercollegiate athletics; requiring the registration of athletes' agents; requiring the secretary of state to adopt regulations establishing the fees for registration; regulating communication and contracts between athletes and agents; prohibiting certain conduct by athletes' agents; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 398 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

Sec. 2. *As used in NRS 398.075, 398.085 and 398.095, and sections 2 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 398.075 and sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Athlete's agent" means a natural person who enters into a contract of agency with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into such a contract. The term includes a natural person who represents to the public that he is an athlete's agent. The term does not include a spouse, parent, sibling, grandparent or guardian of the student athlete or a natural person acting solely on behalf of a professional sports team or sports organization.*

Sec. 4. *"Athletic director" means a natural person responsible for administering the overall athletic program of an institution or, if an institution has separately administered athletic programs for male students and female students, the athletic program for males or for females, as appropriate.*

Sec. 5. *"Contract for endorsement" means an agreement under which a student athlete is employed to use, or receives consideration for using, on behalf of the other party any value that the student athlete may have because of publicity, reputation, following or fame obtained because of athletic ability or performance.*

Sec. 6. *"Contract for professional sports services" means an agreement under which a natural person is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization or as a professional athlete.*

Sec. 7. *"Contract of agency" means an agreement in which a student athlete authorizes a person to negotiate or solicit on his behalf a contract for endorsement or a contract for professional sports services.*

Sec. 8. *“Intercollegiate sport” means a sport played at the collegiate level for which the requirements of eligibility for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.*

Sec. 9. *“Person” includes a government and a governmental subdivision, agency or instrumentality.*

Sec. 10. *“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

Sec. 11. *“Registration” means registration as an athlete’s agent pursuant to this chapter.*

Sec. 12. *“State” includes the District of Columbia, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 13. *The provisions of NRS 398.075, 398.085 and 398.095, and sections 2 to 25, inclusive, of this act may be cited as the Uniform Athletes’ Agents Act.*

Sec. 14. *1. By acting as an athlete’s agent in this state, a nonresident natural person appoints the secretary of state as his agent for service of process in any civil action in this state related to his acting as an athlete’s agent in this state.*

2. The secretary of state may issue subpoenas for any material that is relevant to the administration of the Uniform Athletes’ Agents Act.

Sec. 15. *1. Except as otherwise provided in subsection 2, a person shall not act as an athlete’s agent in this state without holding a certificate of registration under section 18 or 20 of this act.*

2. Before being issued a certificate of registration, a person may act as an athlete’s agent in this state for all purposes except signing a contract of agency if:

(a) A student athlete or another person acting on his behalf initiates communication with the person so acting; and

(b) Within 7 days after an initial act as an athlete’s agent, the person so acting submits an application for registration.

3. A contract of agency resulting from conduct in violation of this section is void and the athlete’s agent shall return any consideration received under the contract.

Sec. 16. *An applicant for registration shall submit an application to the secretary of state in a form prescribed by him. The application must be accompanied by the appropriate fee established by the secretary of state pursuant to section 21 of this act. An application filed pursuant to this section is a public record. The application must be in the name of a natural person and, except as otherwise provided in section 17 of this act, be signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:*

1. The name of the applicant and the address of his principal place of business;

2. The name of the applicant’s business or employer, if applicable;

3. Any business or occupation engaged in by the applicant for the 5 years next preceding the date of submission of the application;

4. A description of the applicant’s:

- (a) *Formal training as an athlete's agent;*
- (b) *Practical experience as an athlete's agent; and*
- (c) *Educational background relating to his activities as an athlete's agent;*

5. *The names and addresses of three natural persons not related to the applicant who are willing to serve as references;*

6. *The name, sport and last known team for each person for whom the applicant acted as an athlete's agent during the 5 years next preceding the date of submission of the application;*

7. *The names and addresses of all person who are:*

(a) *With respect to the athlete's agent's business if it is not a corporation, the partners, members, officers, managers, associates or sharers of profits of the business; and*

(b) *With respect to a corporation employing the athlete's agent, the officers, directors and shareholders having an interest of 5 percent or more;*

8. *Whether the applicant or any person named pursuant to subsection 7 has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;*

9. *Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to subsection 7 has made a false, misleading, deceptive or fraudulent representation;*

10. *Any instance in which the conduct of the applicant or any person named pursuant to subsection 7 resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or an institution;*

11. *Any sanction, suspension or disciplinary action taken against the applicant or any person named pursuant to subsection 7 arising out of occupational or professional conduct; and*

12. *Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to subsection 7 as an athlete's agent in any state.*

Sec. 17. *A natural person who has submitted an application for, and holds a certificate of, registration or licensure as an athlete's agent in another state may submit a copy of the application and certificate instead of submitting an application in the form prescribed under section 16 of this act. The copy of the application and certificate must be accompanied by the appropriate fee established by the secretary of state pursuant to section 21 of this act. The secretary of state shall accept the copy of the application and certificate from the other state as an application for registration in this state if the application to the other state:*

1. *Was submitted to the other state within 6 months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;*

2. *Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and*

3. *Was signed by the applicant under penalty of perjury.*

Sec. 18. 1. *Except as otherwise provided in subsection 2, the secretary of state shall issue a certificate of registration to a natural person who complies with section 16 of this act or whose application has been accepted under section 17 of this act.*

2. *The secretary of state may refuse to issue a certificate of registration if he determines that the applicant has engaged in conduct that has a significant adverse effect on his fitness to act as an athlete's agent. In making this determination, the secretary of state may consider whether the applicant has:*

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

(b) *Made a materially false, misleading, deceptive or fraudulent representation in his application or as an athlete's agent;*

(c) *Engaged in conduct that would disqualify him from serving in a fiduciary capacity;*

(d) *Engaged in conduct prohibited by section 25 of this act;*

(e) *Had registration or licensure as an athlete's agent suspended, revoked or denied, or been refused renewal of registration or licensure as an athlete's agent, in any state;*

(f) *Engaged in conduct whose consequence was that a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or an institution; or*

(g) *Engaged in conduct that significantly adversely reflects on his credibility, honesty or integrity.*

3. *In making a determination pursuant to subsection 2, the secretary of state shall consider:*

(a) *How recently the conduct occurred;*

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

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

Sec. 19. 1. *An athlete's agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the secretary of state. The application must be accompanied by the appropriate fee established by the secretary of state pursuant to section 21 of this act. An application filed pursuant to this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required for an original registration.*

2. *A natural person who has submitted an application for renewal of registration or licensure in another state, instead of submitting an application for renewal in the form prescribed pursuant to subsection 1, may file a copy of the application and a valid certificate of registration or licensure from the other state. The copy of the application and certificate must be accompanied by the appropriate fee established by the secretary of state pursuant to section 21 of this act. The secretary of state shall*

accept the copy of the application and certificate from the other state as an application for renewal in this state if the application to the other state:

(a) Was submitted in the other state within 6 months next preceding the filing in this state and the applicant certifies that the information contained in the application is current;

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

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

3. A certificate of registration or a renewal of registration is valid for 2 years.

Sec. 20. *1. The secretary of state may suspend, revoke or refuse to renew a registration for conduct that would have justified denial of registration under subsection 2 of section 18 of this act.*

2. The secretary of state may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

Sec. 21. *1. The secretary of state shall adopt regulations establishing fees for:*

(a) An initial application for registration;

(b) An application for registration based upon a certificate of registration or licensure issued by another state;

(c) An application for renewal of registration; and

(d) An application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

2. The fees must be sufficient to cover the costs of administration of the Uniform Athletes' Agents Act.

Sec. 22. *1. Within 72 hours after entering into a contract of agency or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete's agent shall give notice, in a record, of the existence of the contract to the athletic director of the institution at which the student athlete is enrolled or the athlete's agent has reasonable ground to believe the student athlete intends to enroll.*

2. Within 72 hours after entering into a contract of agency or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the institution at which he is enrolled that he has entered into the contract.

Sec. 23. *1. A student athlete may cancel a contract of agency by giving notice of the cancellation to the athlete's agent in a record within 14 days after the contract is signed.*

2. A student athlete may not waive the right to cancel a contract of agency.

3. If a student athlete cancels a contract of agency, he is not required to pay any consideration under the contract or to return any consideration received from the athlete's agent to induce him to enter into the contract.

Sec. 24. 1. *An athlete's agent shall retain the following records for 5 years:*

- (a) The name and address of each natural person he represents;*
- (b) Any contract of agency into which he enters; and*
- (c) Any direct cost he incurs in recruiting or soliciting a student athlete to enter into a contract of agency.*

2. *Records required by this section to be retained are open to inspection by the secretary of state during normal business hours.*

Sec. 24.5. 1. *A person, other than an athlete's agent or student athlete, who causes a student athlete or an institution to violate a rule of the national collegiate athletic association to which the institution is a member, or aids in any such violation, is liable to the institution for damages as provided in subsection 2 if:*

(a) The person knew or reasonably should have known that a rule was violated or would be violated; or

(b) The violation of the rule is a contributing cause of:

(1) Disciplinary action, including loss of eligibility, taken by the institution against a student athlete; or

(2) Disciplinary action taken by the national collegiate athletic association against the institution or a student athlete.

2. *Damages that may be awarded against a person who causes a violation of a rule of a national collegiate athletic association, or aids in any such violation, include:*

(a) Costs incurred by the institution relating to any investigation or hearing conducted by the national collegiate athletic association concerning the violation; and

(b) Lost revenues to the institution from:

(1) Lost contracts for televising athletic events;

(2) A decline in ticket sales;

(3) Being prohibited from participating in postseason athletic events and tournaments; and

(4) Other discernible opportunities through which the institution would have realized revenue if the rule had not been violated.

3. *If an institution prevails in an action brought pursuant to this section, it is entitled to an award of reasonable attorney's fees and costs.*

Sec. 25. 1. *An athlete's agent shall not, with the intent to induce a student athlete to enter into any contract:*

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

(b) Furnish anything of value to the student athlete before the student athlete enters into the contract; or

(c) Furnish anything of value to a natural person other than the student athlete or another registered athlete's agent.

2. *An athlete's agent shall not intentionally:*

(a) Initiate communication, direct or indirect, with a student athlete to recruit or solicit him to enter into a contract of agency, unless the agent is registered pursuant to this chapter;

(b) Refuse or fail to retain or permit inspection of records required to be retained pursuant to section 24 of this act;

(c) Fail to register when required pursuant to section 15 of this act;

(d) Include materially false or misleading information in an application for registration or renewal of registration;

(e) Predate or postdate a contract of agency; or

(f) Fail to notify a student athlete, before he signs or otherwise authenticates a contract of agency for a particular sport, that the signing or authentication will make him ineligible to participate as a student athlete in that sport.

3. An athlete's agent who violates this section is guilty of a gross misdemeanor.

4. The secretary of state may impose an administrative fine of not more than \$25,000 upon an athlete's agent for a violation of the Uniform Athletes' Agents Act.

Sec. 26. NRS 398.005 is hereby amended to read as follows:

398.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~398.015 to 398.075, inclusive,~~ **398.045, 398.055 and 398.061** have the meanings ascribed to them in those sections.

Sec. 27. NRS 398.075 is hereby amended to read as follows:

398.075 "Student athlete" means a ~~student who is eligible and competes individually or as a member of a team in intercollegiate athletic events subject to the rules of the national collegiate athletic association to which the institution the student athlete is attending is a member.~~ **natural person who engages in, is eligible to engage in or may be eligible in the future to engage in any intercollegiate sport. For the purposes of a particular sport, the term does not include a person who is permanently ineligible to participate in that sport.**

Sec. 28. NRS 398.085 is hereby amended to read as follows:

398.085 1. ~~A person who causes a student athlete or an institution to violate a rule of the national collegiate athletic association to which the institution is a member, or aids in any such violation, is liable to the institution for damages as provided in subsection 2 if:~~

~~— (a) The person knew or reasonably should have known that a rule was violated or would be violated; or~~

~~— (b) The violation of the rule is a contributing cause of:~~

~~— (1) Disciplinary action, including loss of eligibility, taken by the institution against a student athlete; or~~

~~— (2) Disciplinary action taken by the national collegiate athletic association against the institution or a student athlete.~~

~~2. Damages that may be awarded against a person who causes a violation of a rule of a national collegiate athletic association, or aids in any such violation, include lost revenues to the institution from:~~

~~— (a) Lost contracts for televising athletic events;~~

~~— (b) A decline in ticket sales;~~

~~— (c) Being prohibited from participating in postseason athletic events and tournaments; and~~

~~— (d) Other discernible opportunities through which the institution would have realized revenue if the rule had not been violated.~~

~~3. It is a defense to a cause of action under the provisions of this section that, at the time the rule of the national collegiate athletic association was violated, the defendant was an employee of the:~~

~~— (a) National collegiate athletic association whose rule was violated; or~~
~~— (b) Institution maintaining the action,~~
~~and was acting within the scope of his employment.~~

~~— 4. If an institution prevails in an action brought pursuant to this section, it is entitled to an award of reasonable attorney's fees and costs.]~~
An institution has a right of action against an athlete's agent or a former student athlete for damages caused by a violation of the Uniform Athletes' Agents Act. In such an action, the court may award to the prevailing party costs and reasonable attorney's fees.

2. Damages of an institution pursuant to subsection 1 include losses and expenses incurred because, as a result of the conduct of the athlete's agent or former student athlete, the educational institution was injured by a violation of the Uniform Athletes' Agent Act or was penalized, disqualified or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

3. A right of action pursuant to this section does not accrue until the institution discovers or by the exercise of reasonable diligence should have discovered the violation by the athlete's agent or former student athlete.

4. Any liability of an athlete's agent or former student athlete pursuant to this section is joint and several.

5. This section does not restrict the rights, remedies or defenses of any person under other law or in equity.

Sec. 29. NRS 398.095 is hereby amended to read as follows:

398.095 1. A ~~contractual relationship between a student athlete and a sports agent must:~~

- ~~— (a) Be in writing;~~
- ~~— (b) Be] contract of agency must be in a record signed or otherwise authenticated by the~~
- ~~student athlete and the sports agent;~~
- ~~— (c) Be notarized by a notary public; and~~
- ~~— (d) Contain a notice in substantially the following form:-~~

~~WARNING: A student athlete who signs this agreement may lose eligibility to compete in intercollegiate athletics.~~

~~Nevada law requires that notice of this agreement be sent by registered or certified mail to the president and athletic director of the institution the student athlete is attending and the head coach of each intercollegiate athletic event in which the student athlete competes for it to be valid and enforceable.~~

~~Under Nevada law, a student athlete may rescind this agreement within 20 days after the date he signs the agreement or the date on which the president, athletic director and head coach of the institution the student athlete is attending receives notice of the agreement.~~

~~A student athlete who signs this agreement before the last intercollegiate competition for which he is eligible and competes after signing the agreement may cause his team to forfeit all games in which he competes after signing the agreement and may render his team ineligible for postseason competition.~~

~~—2. A notarized copy of the writing required by subsection 1 must be provided to the student athlete at the time he signs it.~~

~~—3. A sports agent who enters into a contractual relationship with a student athlete during the student athlete's period of eligibility shall, not later than 3 days after entering into the contractual relationship, send notice of the contractual relationship by registered or certified mail to the representatives of the institution the student athlete is attending.~~

~~—4. A student athlete may rescind a contractual relationship he has entered into with a sports agent by providing the sports agent with written notice of his rescission not later than 20 days after:~~

~~—(a) Signing the agreement; or~~

~~—(b) Notice of the contractual relationship is received by the president, athletic director and head coach of the institution the student athlete is attending.~~

~~—5. A student athlete may not waive his right to rescind a contractual relationship pursuant to subsection 4.~~

~~—6. Any consideration received by a student athlete pursuant to a contractual relationship with a sports agent or to induce the student athlete to enter into a contractual relationship with a sports agent shall be deemed a gift to the student athlete if the student athlete rescinds the agreement pursuant to subsection 4 or if the agreement is void and unenforceable.~~

~~—7. Any contractual relationship between a student athlete and a sports agent which does not comply with the provisions of this section is void and unenforceable.† parties.~~

2. The contract must state or contain:

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

(b) The name of any person not listed in the agent's application for registration or renewal of registration who will be compensated because the student athlete signed the contract;

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

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

(e) The duration of the contract; and

(f) The date of execution.

3. The contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface capital letters:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU WILL LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE'S AGENT MUST NOTIFY HIM; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

4. A contract of agency which does not ~~comply with the provisions of this section~~ contain the required warning is void and unenforceable. The student athlete need not pay any consideration under it or return any consideration received from the athlete's agent to induce him to enter into it.

5. The athlete's agent shall give a record of the signed or otherwise authenticated contract to the student athlete at the time of execution.

Sec. 30. The amendatory provisions of this act do not apply to offenses committed before October 1, 2001.

Sec. 31. NRS 398.015, 398.025, 398.035, 398.065 and 597.920 are hereby repealed.

Sec. 32. 1. This section and sections 1 and 21 of this act become effective upon passage and approval.

2. Sections 2 to 20, inclusive, and 22 to 31, inclusive, of this act become effective on October 1, 2001.