
A BILL FOR AN ACT

RELATING TO THE UNIFORM ATHLETE AGENTS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to enact the Uniform
2 Athlete Agents Act. The legislature finds that the Uniform
3 Athlete Agents Act, which was developed by the National
4 Conference of Commissioners on Uniform State Laws, protects
5 student-athletes and educational institutions by regulating the
6 way sports agents deal with students on an initial agency
7 agreement. The Act requires agents to register with the state
8 department of commerce and consumer affairs and to disclose
9 current business information and any negative history, such as a
10 loss of licensure, an administrative sanction, or a finding of
11 conduct causing eligibility violations. This Act protects both
12 student-athletes and schools by requiring specific warnings
13 about the potential loss of eligibility to appear in the
14 contract and by requiring both the agent and the student-athlete
15 to notify the affected school if an agreement is signed.

16 In September 2004, the federal Sports Agent Responsibility
17 and Trust Act (P.L. 108-304) was enacted into law. This federal
18 law prohibits certain acts and practices by athlete agents as



1 unfair and deceptive trade practices and gives the Federal Trade
2 Commission, as well as the states, jurisdiction to enforce these
3 provisions. Recognizing that there is more to be done at the
4 state level, the Congress included a "sense of Congress"
5 statement in section 8 of that Act stating: "It is the sense of
6 Congress that States should enact the Uniform Athlete Agents
7 Act...drafted by the National Conference of Commissioners on
8 Uniform State Laws, to protect student athletes and the
9 integrity of amateur sports from unscrupulous sports agents. In
10 particular, it is the sense of Congress that States should enact
11 the provisions relating to the registration of sports agents,
12 the required form of contract, the right of the student athlete
13 to cancel an agency contract, the disclosure requirements
14 relating to record maintenance, reporting, renewal, notice,
15 warning, and security, and the provisions for reciprocity among
16 the States."

17 The legislature therefore finds it appropriate to enact the
18 Uniform Athlete Agents Act as an important corollary to the
19 recently enacted federal legislation to ensure that appropriate
20 protections are provided to Hawaii's student athletes and
21 educational institutions.



1 Lastly, the legislature recognizes that new regulatory
2 measures that will subject an unregulated profession or vocation
3 to licensing or other regulatory controls, such as the one
4 created under this Act, are normally subject to a sunrise
5 analysis by the auditor.

6 In a sunrise analysis, the auditor sets forth the probable
7 effects of a proposed regulatory measure, assesses whether its
8 enactment is consistent with the policies of the Hawaii
9 regulatory licensing reform act, and assesses alternative forms
10 of regulation.

11 The legislature acknowledges that consumers in the state
12 have not reported any harm or damage sustained from athlete
13 agents. However, the legislature intends to enact regulation of
14 athlete agents before any consumers can sustain harm from them
15 and to deter unethical agents from leaving states where
16 regulation is in place and relocating their operations in an, as
17 yet, unregulated state such as Hawaii. Accordingly, a sunrise
18 analysis in this instance would simply amount to a waste of time
19 and resources. The legislature therefore expressly exempts this
20 bill from a sunrise analysis under section 26H-6, Hawaii Revised
21 Statutes.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 UNIFORM ATHLETE AGENTS ACT

6 § -1 Short title. This chapter may be cited as the
7 Uniform Athlete Agents Act.

8 § -2 Definitions. As used in this chapter, unless the
9 content otherwise requires:

10 "Agency contract" means an agreement in which a student-
11 athlete authorizes a person to negotiate or solicit on behalf of
12 the student-athlete a professional-sports-services contract or
13 an endorsement contract.

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

1 "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
5 students, the athletic program for males or the athletic program
6 for females, as appropriate.

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

10 "Director" means the director of commerce and consumer
11 affairs.

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

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



1 "Person" means an individual, corporation, business trust,
2 estate, trust, partnership, limited liability company,
3 association, joint venture, government, governmental
4 subdivision, agency, or instrumentality, public corporation, or
5 any other legal or commercial entity.

6 "Professional-sports-services contract" means an agreement
7 under which an individual is employed, or agrees to render
8 services, as a player on a professional sports team, with a
9 professional sports organization, or as a professional athlete.

10 "Record" means information that is inscribed on a tangible
11 medium or that is stored in an electronic or other medium and is
12 retrievable in perceivable form.

13 "Registration" means registration as an athlete agent
14 pursuant to this chapter.

15 "State" means a state of the United States, the District of
16 Columbia, Puerto Rico, the United States Virgin Islands, or any
17 territory or insular possession subject to the jurisdiction of
18 the United States.

19 "Student-athlete" means an individual who engages in, is
20 eligible to engage in, or may be eligible in the future to
21 engage in, any intercollegiate sport. If an individual is
22 permanently ineligible to participate in a particular



1 intercollegiate sport, the individual is not a student-athlete
2 for purposes of that sport.

3 **§ -3 Service of process; subpoenas.** (a) By acting as
4 an athlete agent in this state, a nonresident individual
5 appoints the director as the individual's agent for service of
6 process in any civil action in this state related to the
7 individual's acting as an athlete agent in this state.

8 (b) The director may issue subpoenas for any material that
9 is relevant to the administration of this chapter.

10 **§ -4 Athlete agents: registration required; void**
11 **contracts.** (a) Except as otherwise provided in subsection (b),
12 an individual may not act as an athlete agent in this state
13 without holding a certificate of registration under section
14 -6 or -8.

15 (b) Before being issued a certificate of registration, an
16 individual may act as an athlete agent in this state for all
17 purposes except signing an agency contract, if:

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



1 (2) Within seven days after an initial act as an athlete
2 agent, the individual submits an application for
3 registration as an athlete agent in this state.

4 (c) An agency contract resulting from conduct in violation
5 of this section is void and the athlete agent shall return any
6 consideration received under the contract.

7 **§ -5 Registration as athlete agent; form; requirements.**

8 (a) An applicant for registration shall submit an application
9 for registration to the director in a form prescribed by the
10 director. An application filed under this section is a
11 government record. The application shall be in the name of an
12 individual and, except as otherwise provided in subsection (b),
13 signed or otherwise authenticated by the applicant under penalty
14 of perjury or of unsworn falsification to authorities, as
15 applicable, and shall state or contain:

16 (1) The name of the applicant and the address of the
17 applicant's principal place of business;

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

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



- 1 (4) A description of the applicant's:
 - 2 (A) Formal training as an athlete agent;
 - 3 (B) Practical experience as an athlete agent; and
 - 4 (C) Educational background relating to the
 - 5 applicant's activities as an athlete agent;
- 6 (5) The names and addresses of three individuals not
- 7 related to the applicant who are willing to serve as
- 8 references;
- 9 (6) The name, sport, and last known team for each
- 10 individual for whom the applicant acted as an athlete
- 11 agent during the five years next preceding the date of
- 12 submission of the application;
- 13 (7) The names and addresses of all persons who are:
 - 14 (A) With respect to the athlete agent's business if
 - 15 it is not a corporation, the partners, members,
 - 16 officers, managers, associates, or profit-sharers
 - 17 of the business; and
 - 18 (B) With respect to a corporation employing the
 - 19 athlete agent, the officers, directors, and any
 - 20 shareholder of the corporation having an interest
 - 21 of five per cent or greater;

- 1 (8) Whether the applicant or any person named pursuant to
2 paragraph (7) has been convicted of a crime that, if
3 committed in this state, would be a crime involving
4 moral turpitude or a felony, and identify the crime;
- 5 (9) Whether there has been any administrative or judicial
6 determination that the applicant or any person named
7 pursuant to paragraph (7) has made a false,
8 misleading, deceptive, or fraudulent representation;
- 9 (10) Any instance in which the conduct of the applicant or
10 any person named pursuant to paragraph (7) resulted in
11 the imposition of a sanction, suspension, or
12 declaration of ineligibility to participate in an
13 interscholastic or intercollegiate athletic event, on
14 a student-athlete or educational institution;
- 15 (11) Any sanction, suspension, or disciplinary action taken
16 against the applicant or any person named pursuant to
17 paragraph (7) arising out of occupational or
18 professional conduct; and
- 19 (12) Whether there has been any denial of an application
20 for, suspension or revocation of, or refusal to renew,
21 the registration or licensure of the applicant or any



1 person named pursuant to paragraph (7) as an athlete
2 agent in any state.

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

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

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

18 (3) Was signed by the applicant under penalty of perjury
19 or of a related offense in the other state.

20 **§ -6 Certificate of registration; issuance or denial;**

21 **renewal.** (a) Except as otherwise provided in subsection (b),
22 the director shall issue a certificate of registration to an



1 individual who complies with section -5(a) or whose
2 application has been accepted under section -5(b).

3 (b) The director may refuse to issue a certificate of
4 registration if the director determines that the applicant has
5 engaged in conduct that has a significant adverse effect on the
6 applicant's fitness to act as an athlete agent. In making the
7 determination, the director may consider whether the applicant
8 has:

- 9 (1) Been convicted of a crime that, if committed in this
10 state, would be a crime involving moral turpitude or a
11 felony;
- 12 (2) Made a materially false, misleading, deceptive, or
13 fraudulent representation in the application or as an
14 athlete agent;
- 15 (3) Engaged in conduct that would disqualify the applicant
16 from serving in a fiduciary capacity;
- 17 (4) Engaged in conduct prohibited by section -14;
- 18 (5) Had a registration or licensure as an athlete agent
19 suspended, revoked, or denied or been refused renewal
20 of registration or licensure as an athlete agent in
21 any state;

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

6 (7) Engaged in conduct that significantly adversely
7 reflects on the applicant's credibility, honesty, or
8 integrity.

9 (c) In making a determination under subsection (b), the
10 director shall consider:

11 (1) How recently the conduct occurred;

12 (2) The nature of the conduct and the context in which it
13 occurred; and

14 (3) Any other relevant conduct of the applicant.

15 (d) An athlete agent may apply to renew a registration by
16 submitting an application for renewal in a form prescribed by
17 the director. An application filed under this section is a
18 government record. The application for renewal shall be signed
19 by the applicant under penalty of perjury or of unsworn
20 falsification to authorities, as applicable, and shall contain
21 current information on all matters required in an original
22 registration.



1 (e) An individual who has submitted an application for
2 renewal of registration or licensure in another state, in lieu
3 of submitting an application for renewal in the form prescribed
4 pursuant to subsection (d), may file a copy of the application
5 for renewal and a valid certificate of registration or licensure
6 from the other state. The director shall accept the application
7 for renewal from the other state as an application for renewal
8 in this state if the application to the other state:

- 9 (1) Was submitted in the other state within six months
10 next preceding the filing in this state and the
11 applicant certifies the information contained in the
12 application for renewal is current;
- 13 (2) Contains information substantially similar to or more
14 comprehensive than that required in an application for
15 renewal submitted in this state; and
- 16 (3) Was signed by the applicant under penalty of perjury
17 or of a related offense in the other state.

18 (f) A certificate of registration or a renewal of a
19 registration is valid for two years.

20 **§ -7 Suspension, revocation, or refusal to renew**

21 **registration.** (a) The director may suspend, revoke, or refuse



1 to renew a registration for conduct that would have justified
2 denial of registration under section -6(b).

3 (b) The director may deny, suspend, revoke, or refuse to
4 renew a certificate of registration or licensure only after
5 proper notice and an opportunity for a hearing pursuant to
6 chapter 91.

7 **§ -8 Temporary registration.** The director may issue a
8 temporary certificate of registration while an application for
9 registration or renewal of registration is pending.

10 **§ -9 Fees and expenses.** No applicant or registrant
11 shall be issued a certificate of registration unless the
12 appropriate fees have been paid. Unless otherwise provided by
13 law, the director shall establish the amount of all fees and
14 expenses by rules adopted pursuant to chapter 91, and the fees
15 shall be deposited with the director to the credit of the
16 compliance resolution fund established pursuant to section 26-
17 9(o).

18 **§ -10 Required form of contract.** (a) An agency
19 contract shall be in a record, signed or otherwise authenticated
20 by the parties.

21 (b) An agency contract shall state or contain:



- 1 (1) The amount and method of calculating the consideration
- 2 to be paid by the student-athlete for services to be
- 3 provided by the athlete agent under the contract and
- 4 any other consideration the athlete agent has received
- 5 or will receive from any other source for entering
- 6 into the contract or for providing the services;
- 7 (2) The name of any person not listed in the application
- 8 for registration or renewal of registration who will
- 9 be compensated because the student-athlete signed the
- 10 agency contract;
- 11 (3) A description of any expenses that the student-athlete
- 12 agrees to reimburse;
- 13 (4) A description of the services to be provided to the
- 14 student-athlete;
- 15 (5) The duration of the contract; and
- 16 (6) The date of execution.
- 17 (c) An agency contract shall contain, in close proximity
- 18 to the signature of the student-athlete, a conspicuous notice in
- 19 boldface type in capital letters stating:

1 **"WARNING TO STUDENT-ATHLETE**

2 **IF YOU SIGN THIS CONTRACT:**

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

5 (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS**
6 **AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE**
7 **AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND**

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

11 (d) An agency contract that does not conform to this
12 section is voidable by the student-athlete. If a student-
13 athlete voids an agency contract, the student-athlete is not
14 required to pay any consideration under the contract or to
15 return any consideration received from the athlete agent to
16 induce the student-athlete to enter into the contract.

17 (e) The athlete agent shall give a record of the signed or
18 otherwise authenticated agency contract to the student-athlete
19 at the time of execution.

20 **§ -11 Notice to educational institution.** (a) Within
21 seventy-two hours after entering into an agency contract or
22 before the next scheduled athletic event in which the student-

1 athlete may participate, whichever occurs first, the athlete
2 agent shall give notice in a record of the existence of the
3 contract to the athletic director of the educational institution
4 at which the student-athlete is enrolled or the athlete agent
5 has reasonable grounds to believe the student-athlete intends to
6 enroll.

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

13 **§ -12 Student-athlete's right to cancel.** (a) A
14 student-athlete may cancel an agency contract by giving notice
15 of the cancellation to the athlete agent in a record within
16 fourteen days after the contract is signed.

17 (b) A student-athlete may not waive the right to cancel an
18 agency contract.

19 (c) If a student-athlete cancels an agency contract, the
20 student-athlete is not required to pay any consideration under
21 the contract or to return any consideration received from the



1 athlete agent to induce the student-athlete to enter into the
2 contract.

3 **§ -13 Required records.** (a) An athlete agent shall
4 retain the following records for a period of five years:

5 (1) The name and address of each individual represented by
6 the athlete agent;

7 (2) Any agency contract entered into by the athlete agent;
8 and

9 (3) Any direct costs incurred by the athlete agent in the
10 recruitment or solicitation of a student-athlete to
11 enter into an agency contract.

12 (b) Records required by subsection (a) to be retained
13 shall be open to inspection by the director during normal
14 business hours.

15 **§ -14 Prohibited conduct.** (a) An athlete agent, with
16 the intent to induce a student-athlete to enter into an agency
17 contract, may not:

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

20 (2) Furnish anything of value to a student-athlete before
21 the student-athlete enters into the agency contract;
22 or



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

4 (b) An athlete agent may not intentionally:

5 (1) Initiate contact with a student-athlete unless
6 registered under this chapter;

7 (2) Refuse or fail to retain or permit inspection of the
8 records required to be retained by section -13;

9 (3) Fail to register when required by section -4;

10 (4) Provide materially false or misleading information in
11 an application for registration or renewal of
12 registration;

13 (5) Predate or postdate an agency contract; or

14 (6) Fail to notify a student-athlete before the student-
15 athlete signs or otherwise authenticates an agency
16 contract for a particular sport that the signing or
17 authentication may make the student-athlete ineligible
18 to participate as a student-athlete in that sport.

19 **§ -15 Criminal penalties.** An athlete agent who violates
20 section -14 is guilty of a misdemeanor.

21 **§ -16 Civil remedies.** (a) An educational institution
22 has a right of action against an athlete agent or a former

1 student-athlete for damages caused by a violation of this
2 chapter. In an action under this section, the court may award
3 to the prevailing party costs and reasonable attorney's fees.

4 (b) Damages of an educational institution under subsection
5 (a) include losses and expenses incurred because, as a result of
6 the conduct of an athlete agent or former student-athlete, the
7 educational institution was injured by a violation of this
8 chapter or was penalized, disqualified, or suspended from
9 participation in athletics by a national association for the
10 promotion and regulation of athletics, by an athletic
11 conference, or by reasonable self-imposed disciplinary action
12 taken to mitigate sanctions likely to be imposed by such an
13 organization.

14 (c) A right of action under this section does not accrue
15 until the educational institution discovers or by the exercise
16 of reasonable diligence would have discovered the violation by
17 the athlete agent or former student-athlete.

18 (d) Any liability of the athlete agent or the former
19 student-athlete under this section is several and not joint.

20 (e) This chapter does not restrict rights, remedies, or
21 defenses of any person under law or equity.



1 **§ -17 Civil penalty.** Any person who violates any
2 provision of this chapter or its rules shall be fined not more
3 than \$25,000 for each offense and each day's violation or
4 failure to comply shall be deemed a separate offense. Unless
5 otherwise expressly provided, the remedies or penalties provided
6 by this chapter are cumulative to each other and to the remedies
7 or penalties available under all other laws of this state.

8 **§ -18 Uniformity of application and construction.** In
9 applying and construing this chapter, consideration shall be
10 given to the need to promote uniformity of the law with respect
11 to its subject matter among states that enact it.

12 **§ -19 Electronic Signatures in Global and National**
13 **Commerce Act.** The provisions of this chapter governing the
14 legal effect, validity, or enforceability of electronic records
15 or signatures, and of contracts formed or performed with the use
16 of such records or signatures conform to the requirements of
17 section 102 of the Electronic Signatures in Global and National
18 Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and
19 supersede, modify, and limit the Electronic Signatures in Global
20 and National Commerce Act.

21 **§ -20 Rules.** The director may adopt, amend, and repeal
22 rules that the director considers necessary or expedient for the



1 regulation and oversight of this chapter. The rules when
2 adopted pursuant to chapter 91 shall have the force and effect
3 of law."

4 SECTION 3. This Act shall be exempt from the analysis
5 otherwise required by section 26H-6, Hawaii Revised Statutes.

6 SECTION 4. This Act shall take effect on July 1, 2020.



HB 2440
HD 2

Report Title:

Uniform Athlete Agents Act; Student-Athletes; Athlete Agents

Description:

Enacts the Uniform Athlete Agents Act to protect student-athletes and educational institutions from potential harm caused by unscrupulous athlete agents. Exempts its provisions from the Auditor's sunrise review. (HB2440 HD2)

