

JAN 17 2019

A BILL FOR AN ACT

RELATING TO ATHLETE AGENTS.

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

1 SECTION 1. The Uniform Athlete Agents Act, codified as
2 chapter 481E, Hawaii Revised Statutes, provides for the uniform
3 registration, certification, and a mandated criminal history
4 disclosure of sports agents seeking to represent student
5 athletes who are or may be eligible to participate in
6 intercollegiate sports.

7 Since the enactment of chapter 481E, Hawaii Revised
8 Statutes, related problems have surfaced regarding financial
9 advisers, who are not covered under the act.

10 The purpose of this Act is to repeal chapter 481E, Hawaii
11 Revised Statutes, and replace it with a new revised uniform
12 athlete agents act that applies to financial advisers under
13 certain circumstances, and makes the law more effective and
14 enforceable.

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



1 "CHAPTER

2 REVISED UNIFORM ATHLETE AGENTS ACT

3 § -1 Short title. This chapter may be cited as the
4 Revised Uniform Athlete Agents Act.

5 § -2 Definitions. As used in this chapter:

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

10 "Athlete agent":

11 (1) Means an individual, whether or not registered under
12 this chapter, who:

13 (A) Directly or indirectly recruits or solicits a
14 student athlete to enter into an agency contract
15 or, for compensation, procures employment or
16 offers, promises, attempts, or negotiates to
17 obtain employment for a student athlete as a
18 professional athlete or member of a professional
19 sports team or organization;



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- 1 (B) For compensation or in anticipation of
- 2 compensation related to a student athlete's
- 3 participation in athletics:
- 4 (i) Serves the athlete in an advisory capacity
- 5 on a matter related to finances, business
- 6 pursuits, or career management decisions,
- 7 unless the individual is an employee of an
- 8 educational institution acting exclusively
- 9 as an employee of the institution for the
- 10 benefit of the institution; or
- 11 (ii) Manages the business affairs of the athlete
- 12 by providing assistance with bills,
- 13 payments, contracts, or taxes; or
- 14 (C) In anticipation of representing a student athlete
- 15 for a purpose related to the athlete's
- 16 participation in athletics:
- 17 (i) Gives consideration to the student athlete
- 18 or another person;
- 19 (ii) Serves the athlete in an advisory capacity
- 20 on a matter related to finances, business
- 21 pursuits, or career management decisions; or



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- 1 (iii) Manages the business affairs of the athlete
2 by providing assistance with bills,
3 payments, contracts, or taxes; and
- 4 (2) Does not include an individual who:
- 5 (A) Acts solely on behalf of a professional sports
6 team or organization; or
- 7 (B) Is a licensed, registered, or certified
8 professional and offers or provides services to a
9 student athlete customarily provided by members
10 of the profession, unless the individual:
- 11 (i) Also recruits or solicits the athlete to
12 enter into an agency contract;
- 13 (ii) Also, for compensation, procures employment
14 or offers, promises, attempts, or negotiates
15 to obtain employment for the athlete as a
16 professional athlete or member of a
17 professional sports team or organization; or
- 18 (iii) Receives consideration for providing the
19 services calculated using a different method
20 than for an individual who is not a student
21 athlete.



1 "Athletic director" means the 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 "Certified athlete agent" means an athlete agent registered
8 under this chapter who is certified to be an athlete agent in a
9 particular sport by a national association that promotes or
10 regulates intercollegiate athletics and establishes eligibility
11 standards for participation by a student athlete in that sport.

12 "Director" means the director of commerce and consumer
13 affairs.

14 "Educational institution" includes a public or private
15 elementary school, secondary school, technical or vocational
16 school, community college, college, and university.

17 "Endorsement contract" means an agreement under which a
18 student athlete is employed or receives consideration to use on
19 behalf of the other party any value that the athlete may have
20 because of publicity, reputation, following, or fame obtained
21 because of athletic ability or performance.



1 "Enrolled" or "enrolls" means registered for courses and
2 attending athletic practice or class.

3 "Intercollegiate sport" means a sport played at the
4 collegiate level for which eligibility requirements for
5 participation by a student athlete are established by a national
6 association that promotes or regulates collegiate athletics.

7 "Interscholastic sport" means a sport played between
8 educational institutions that are not community colleges,
9 colleges, or universities.

10 "Licensed, registered, or certified professional" means an
11 individual licensed, registered, or certified as an attorney,
12 dealer in securities, financial planner, insurance producer,
13 real estate broker or salesperson, tax consultant, accountant,
14 or member of a profession, other than that of athlete agent, who
15 is licensed, registered, or certified by the State or a
16 nationally recognized organization that licenses, registers, or
17 certifies members of the profession on the basis of experience,
18 education, or testing.

19 "Person" means an individual, estate, business or nonprofit
20 entity, public corporation, government or governmental
21 subdivision, agency, or instrumentality, or other legal entity.



1 "Professional-sports-services contract" means an agreement
2 under which an individual is employed as a professional athlete
3 or agrees to render services as a player on a professional
4 sports team or with a professional sports organization.

5 "Record" means information that is inscribed on a tangible
6 medium or that is stored in an electronic or other medium and is
7 retrievable in perceivable form.

8 "Recruit or solicit" means to attempt to influence the
9 choosing of an athlete agent by a student athlete or, if the
10 athlete is a minor, a parent or guardian of the athlete. The
11 term does not include giving advice on the selection of a
12 particular agent in a family, coaching, or social situation
13 unless the individual giving the advice does so because of the
14 receipt or anticipated receipt of an economic benefit, directly
15 or indirectly, from the agent.

16 "Registration" means registration as an athlete agent under
17 this chapter.

18 "Sign" means, with present intent to authenticate or adopt
19 a record:

20 (1) To execute or adopt a tangible symbol; or



1 (2) To attach to or logically associate with the record an
2 electronic symbol, sound, or process.

3 "State" means a state of the United States, the District of
4 Columbia, Guam, Puerto Rico, the United States Virgin Islands,
5 or any territory or insular possession subject to the
6 jurisdiction of the United States.

7 "Student athlete" means an individual who is eligible to
8 attend an educational institution and engages in, is eligible to
9 engage in, or may be eligible in the future to engage in, any
10 interscholastic or intercollegiate sport. The term does not
11 include an individual permanently ineligible to participate in a
12 particular interscholastic or intercollegiate sport for that
13 sport.

14 § -3 **Director; powers and duties; authority; procedure.**

15 (a) In addition to any other powers and duties authorized by
16 law, the director shall have the powers and duties to:

- 17 (1) Grant, deny, renew, refuse to renew, restore,
18 terminate, reinstate, condition, restrict, suspend, or
19 revoke a registration issued pursuant to this chapter;



- 1 (2) Adopt, amend, or repeal rules pursuant to chapter 91
2 as the director finds necessary to carry out this
3 chapter;
- 4 (3) Administer, coordinate, and enforce this chapter;
- 5 (4) Discipline a registered athlete agent on grounds
6 specified by this chapter or chapter 436B or for any
7 violation of rules adopted by the director pursuant to
8 this chapter; and
- 9 (5) Refuse to register a person for failure to meet the
10 registration requirements in this chapter or for any
11 reason specified by this chapter as grounds to
12 discipline an athlete agent.

13 (b) By acting as an athlete agent in this State, a
14 nonresident individual appoints the director as the individual's
15 agent for service of process in any civil action in this State
16 related to the individual acting as an athlete agent in this
17 State.

18 (c) The director may issue a subpoena for material that is
19 relevant to the administration of this chapter.

20 § -4 **Athlete agent; registration required; void**
21 **contract.** (a) Except as otherwise provided in subsection (b),



1 an individual may not act as an athlete agent in this State
2 without holding a certificate of registration under this
3 chapter.

4 (b) Before being issued a certificate of registration
5 under this chapter, an individual may act as an athlete agent in
6 this State for all purposes except signing an agency contract,
7 if:

8 (1) A student athlete or another person acting on behalf
9 of the athlete initiates communication with the
10 individual; and

11 (2) Not later than seven days after an initial act that
12 requires the individual to register as an athlete
13 agent, the individual submits an application for
14 registration as an athlete agent in this State.

15 (c) An agency contract resulting from conduct in violation
16 of this section is void, and the athlete agent shall return any
17 consideration received under the contract.

18 § -5 **Registration as athlete agent; application;**
19 **requirements; reciprocal registration.** (a) An applicant for
20 registration as an athlete agent shall submit an application for
21 registration to the director in a form prescribed by the



1 director. The applicant shall be an individual, and the
2 application shall be signed by the applicant under penalty of
3 perjury or unsworn falsification to authorities, as applicable.

4 The application shall contain at least the following:

5 (1) The name and date and place of birth of the applicant
6 and the following contact information for the
7 applicant:

8 (A) The address of the applicant's principal place of
9 business;

10 (B) Work and mobile telephone numbers; and

11 (C) Any means of communicating electronically,
12 including a facsimile number, electronic mail
13 address, and personal and business or employer
14 websites;

15 (2) The name of the applicant's business or employer, if
16 applicable, including for each business or employer,
17 its mailing address, telephone number, organization
18 form, and the nature of the business;

19 (3) Each social media account with which the applicant or
20 the applicant's business or employer is affiliated;



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- 1 (4) Each business or occupation in which the applicant
2 engaged within five years before the date of the
3 application, including self-employment and employment
4 by others, and any professional or occupational
5 license, registration, or certification held by the
6 applicant during that time;
- 7 (5) A description of the applicant's:
- 8 (A) Formal training as an athlete agent;
- 9 (B) Practical experience as an athlete agent; and
- 10 (C) Educational background relating to the
11 applicant's activities as an athlete agent;
- 12 (6) The name of each student athlete for whom the
13 applicant acted as an athlete agent within five years
14 before the date of the application or, if the athlete
15 is a minor, the name of the parent or guardian of the
16 minor, together with the athlete's sport and last
17 known team;
- 18 (7) The name and address of each person that:
- 19 (A) Is a partner, member, officer, manager,
20 associate, or profit sharer or directly or
21 indirectly holds an equity interest of five per



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- 1 cent or greater of the athlete agent's business
2 if it is not a corporation; and
- 3 (B) Is an officer or director of a corporation
4 employing the athlete agent or a shareholder
5 having an interest of five per cent or greater in
6 the corporation;
- 7 (8) A description of the status of any application by the
8 applicant, or any person named under paragraph (7),
9 for a state or federal business, professional, or
10 occupational license, other than as an athlete agent,
11 from a state or federal agency, including any denial,
12 refusal to renew, suspension, withdrawal, or
13 termination of the license and any reprimand or
14 censure related to the license;
- 15 (9) Whether the applicant, or any person named under
16 paragraph (7), has pleaded guilty or no contest to,
17 has been convicted of, or has charges pending for, a
18 crime that would involve moral turpitude or be a
19 felony if committed in this State and, if so,
20 identification of:
- 21 (A) The crime;



- 1 (B) The law-enforcement agency involved; and
- 2 (C) If applicable, the date of the conviction and the
- 3 fine or penalty imposed;
- 4 (10) Whether, within fifteen years before the date of
- 5 application, the applicant, or any person named under
- 6 paragraph (7), has been a defendant or respondent in a
- 7 civil proceeding, including a proceeding seeking an
- 8 adjudication of incapacity and, if so, the date and a
- 9 full explanation of each proceeding;
- 10 (11) Whether the applicant, or any person named under
- 11 paragraph (7), has an unsatisfied judgment or a
- 12 judgment of continuing effect, including support and
- 13 maintenance or a domestic order in the nature of child
- 14 support, which is not current at the date of the
- 15 application;
- 16 (12) Whether, within ten years before the date of
- 17 application, the applicant, or any person named under
- 18 paragraph (7), was adjudicated bankrupt or was an
- 19 owner of a business that was adjudicated bankrupt;
- 20 (13) Whether there has been any administrative or judicial
- 21 determination that the applicant, or any person named



- 1 under paragraph (7), made a false, misleading,
2 deceptive, or fraudulent representation;
- 3 (14) Each instance in which conduct of the applicant, or
4 any person named under paragraph (7), resulted in the
5 imposition of a sanction, suspension, or declaration
6 of ineligibility to participate in an interscholastic,
7 intercollegiate, or professional athletic event on a
8 student athlete or a sanction on an educational
9 institution;
- 10 (15) Each sanction, suspension, or disciplinary action
11 taken against the applicant, or any person named under
12 paragraph (7), arising out of occupational or
13 professional conduct;
- 14 (16) Whether there has been a denial of an application for,
15 suspension or revocation of, refusal to renew, or
16 abandonment of, the registration of the applicant, or
17 any person named under paragraph (7), as an athlete
18 agent in any state;
- 19 (17) Each state in which the applicant currently is
20 registered as an athlete agent or has applied to be
21 registered as an athlete agent;



- 1 (18) If the applicant is certified or registered by a
2 professional league or players association:
- 3 (A) The name of the league or association;
- 4 (B) The date of certification or registration, and
5 the date of expiration of the certification or
6 registration, if any; and
- 7 (C) If applicable, the date of any denial of an
8 application for, suspension or revocation of,
9 refusal to renew, withdrawal of, or termination
10 of, the certification or registration or any
11 reprimand or censure related to the certification
12 or registration; and
- 13 (19) Any additional information required by the director.
- 14 (b) Instead of submitting an athlete agent application for
15 registration pursuant to subsection (a), an individual
16 registered as an athlete agent in another state that has adopted
17 the Revised Uniform Athlete Agents Act may apply for
18 registration as an athlete agent in this State by submitting to
19 the director:
- 20 (1) A copy of the application for registration in the
21 other state;



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1 (2) A statement that identifies any material change in the
2 information on the application or verifies there is no
3 material change in the information, signed under
4 penalty of unsworn falsification to authorities; and

5 (3) A copy of the certificate of registration from the
6 other state.

7 (c) The director shall issue a certificate of registration
8 to an individual who applies for registration under subsection
9 (b) if the director determines:

10 (1) The application and registration requirements of the
11 other state are substantially similar to or more
12 restrictive than this chapter; and

13 (2) The registration has not been revoked or suspended and
14 no action involving the individual's conduct as an
15 athlete agent is pending against the individual or the
16 individual's registration in any state.

17 (d) For purposes of implementing subsection (c), the
18 director shall:

19 (1) Cooperate with national organizations concerned with
20 athlete agent issues and agencies in other states that
21 register athlete agents to develop a common



1 registration form and determine which states have laws
2 that are substantially similar to or more restrictive
3 than this chapter; and

4 (2) Exchange information, including information related to
5 actions taken against registered athlete agents or
6 their registrations, with those organizations and
7 agencies.

8 § -6 **Certificate of registration; issuance or denial;**

9 **renewal.** (a) Except as otherwise provided in subsection (b),
10 the director shall issue a certificate of registration to an
11 applicant for registration who complies with section -5(a).

12 (b) The director may refuse to issue a certificate of
13 registration to an applicant for registration under
14 section -5(a) if the director determines that the applicant
15 has engaged in conduct that significantly adversely reflects on
16 the applicant's fitness to act as an athlete agent. In making
17 the determination, the director may consider whether the
18 applicant has:

19 (1) Pleaded guilty or no contest to, has been convicted
20 of, or has charges pending for, a crime that would



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1 involve moral turpitude or be a felony if committed in
2 this State;

3 (2) Made a materially false, misleading, deceptive, or
4 fraudulent representation in the application or as an
5 athlete agent;

6 (3) Engaged in conduct that would disqualify the applicant
7 from serving in a fiduciary capacity;

8 (4) Engaged in conduct prohibited by section -14;

9 (5) Had a registration as an athlete agent suspended,
10 revoked, or denied in any state;

11 (6) Been refused renewal of registration as an athlete
12 agent in any state;

13 (7) Engaged in conduct resulting in imposition of a
14 sanction, suspension, or declaration of ineligibility
15 to participate in an interscholastic, intercollegiate,
16 or professional athletic event on a student athlete or
17 a sanction on an educational institution; or

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

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



- 1 (1) How recently the conduct occurred;
- 2 (2) The nature of the conduct and the context in which it
- 3 occurred; and
- 4 (3) Other relevant conduct of the applicant.
- 5 (d) An athlete agent registered under subsection (a) may
- 6 apply to renew the registration by submitting an application for
- 7 renewal in a form prescribed by the director. The applicant
- 8 shall sign the application for renewal under penalty of unsworn
- 9 falsification to authorities and include current information on
- 10 all matters required in an original application for
- 11 registration.
- 12 (e) An athlete agent registered under section -5(c) may
- 13 renew the registration by proceeding under subsection (d) or, if
- 14 the registration in the other state has been renewed, by
- 15 submitting to the director copies of the application for renewal
- 16 in the other state and the renewed registration from the other
- 17 state. The director shall renew the registration if the
- 18 director determines:
- 19 (1) The registration requirements of the other state are
- 20 substantially similar to or more restrictive than this
- 21 chapter; and



1 (2) The renewed registration has not been suspended or
2 revoked and no action involving the individual's
3 conduct as an athlete agent is pending against the
4 individual or the individual's registration in any
5 state.

6 (f) A certificate of registration or renewal of
7 registration under this chapter shall be valid for two years and
8 shall be renewed by June 30 of every even-numbered year, upon
9 the payment of a renewal fee within sixty days before the
10 expiration of the registration. Registrations that have been
11 forfeited may be restored within one year of the forfeiture date
12 upon payment of renewal and restoration fees. Failure to
13 restore a forfeited registration within one year shall result in
14 the automatic termination of the registration. A person whose
15 registration has been terminated pursuant to this section shall
16 be required to reapply for a new registration as a new
17 applicant.

18 § -7 **Limitation, suspension, revocation, or refusal to**
19 **renew registration.** (a) The director may limit, suspend,
20 revoke, or refuse to renew a registration of an individual
21 registered under section -6(a) for conduct that would have



1 justified refusal to issue a certificate of registration under
2 section -6(b).

3 (b) The director may suspend or revoke the registration of
4 an individual registered under section -5(c) or renewed under
5 section -6(e) for any reason for which the director could
6 have refused to grant or renew registration or for conduct that
7 would justify refusal to issue a certificate of registration
8 under section -6(b).

9 (c) The director may deny, suspend, revoke, or refuse to
10 renew a certificate of registration after proper notice and an
11 opportunity for a hearing pursuant to chapter 91.

12 § -8 **Temporary registration.** The director may issue a
13 temporary certificate of registration as an athlete agent while
14 an application for registration or renewal of registration is
15 pending.

16 § -9 **Registration and renewal fees.** No applicant or
17 registrant shall be issued a certificate of registration unless
18 the appropriate fees have been paid. Unless otherwise provided
19 by law, the director shall establish the amount of all fees and
20 expenses by rules adopted pursuant to chapter 91, and the fees
21 shall be deposited with the director to the credit of the



1 compliance resolution fund established pursuant to section 26-
2 9(o).

3 § -10 **Required form of agency contract.** (a) An agency
4 contract shall be in a record signed by the parties.

5 (b) An agency contract shall contain:

6 (1) A statement that the athlete agent is registered as an
7 athlete agent in this State and a list of any other
8 states in which the agent is registered as an athlete
9 agent;

10 (2) The amount and method of calculating the consideration
11 to be paid by the student athlete for services to be
12 provided by the agent under the contract and any other
13 consideration the agent has received or will receive
14 from any other source for entering into the contract
15 or providing the services;

16 (3) The name of any person not listed in the agent's
17 application for registration or renewal of
18 registration that will be compensated because the
19 athlete signed the contract;

20 (4) A description of any expenses the athlete agrees to
21 reimburse;



1 (5) A description of the services to be provided to the
2 athlete;

3 (6) The duration of the contract; and

4 (7) The date of execution.

5 (c) Subject to subsection (g), an agency contract shall
6 contain a conspicuous notice in boldface type and in
7 substantially the following form:

8 **"WARNING TO STUDENT ATHLETE**

9 **IF YOU SIGN THIS CONTRACT:**

10 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT**
11 **ATHLETE IN YOUR SPORT;**

12 (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN SEVENTY-TWO**
13 **HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT**
14 **SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE,**
15 **WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE**
16 **AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE**
17 **ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND**
18 **CONTACT INFORMATION OF THE ATHLETE AGENT; AND**

19 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN FOURTEEN DAYS**
20 **AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY**



1 **NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN**
2 **YOUR SPORT."**

3 (d) An agency contract shall be accompanied by a separate
4 record signed by the student athlete or, if the athlete is a
5 minor, the parent or guardian of the athlete acknowledging that
6 signing the contract may result in the loss of the athlete's
7 eligibility to participate in the athlete's sport.

8 (e) A student athlete or, if the athlete is a minor, the
9 parent or guardian of the athlete may void an agency contract
10 that does not conform to this section. If the contract is
11 voided, any consideration received from the athlete agent under
12 the contract to induce entering into the contract is not
13 required to be returned.

14 (f) At the time an agency contract is executed, the
15 athlete agent shall give the student athlete or, if the athlete
16 is a minor, the parent or guardian of the athlete a copy in a
17 record of the contract and the separate acknowledgment required
18 by subsection (d).

19 (g) If a student athlete is a minor, an agency contract
20 shall be signed by the parent or guardian of the minor and the
21 notice required by subsection (c) shall be revised accordingly.



1 § -11 **Notice to educational institution.** (a) As used
2 in this section, "communication or attempt to communicate" means
3 contacting or attempting to contact by an in-person meeting, a
4 record, or any other method that conveys or attempts to convey a
5 message.

6 (b) Not later than seventy-two hours after entering into
7 an agency contract or before the next scheduled athletic event
8 in which the student athlete may participate, whichever occurs
9 first, the athlete agent shall give notice in a record of the
10 existence of the contract to the athletic director of the
11 educational institution at which the athlete is enrolled or at
12 which the agent has reasonable grounds to believe the athlete
13 intends to enroll.

14 (c) Not later than seventy-two hours after entering into
15 an agency contract or before the next scheduled athletic event
16 in which the student athlete may participate, whichever occurs
17 first, the athlete shall inform the athletic director of the
18 educational institution at which the athlete is enrolled that
19 the athlete has entered into an agency contract and the name and
20 contact information of the athlete agent.



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1 (d) If an athlete agent enters into an agency contract
2 with a student athlete and the athlete subsequently enrolls at
3 an educational institution, the agent shall notify the athletic
4 director of the institution of the existence of the contract not
5 later than seventy-two hours after the agent knew or should have
6 known the athlete enrolled.

7 (e) If an athlete agent has a relationship with a student
8 athlete before the athlete enrolls in an educational institution
9 and receives an athletic scholarship from the institution, the
10 agent shall notify the institution of the relationship not later
11 than ten days after the enrollment if the agent knows or should
12 have known of the enrollment and:

13 (1) The relationship was motivated in whole or part by the
14 intention of the agent to recruit or solicit the
15 athlete to enter an agency contract in the future; or

16 (2) The agent directly or indirectly recruited or
17 solicited the athlete to enter an agency contract
18 before the enrollment.

19 (f) An athlete agent shall give notice in a record to the
20 athletic director of any educational institution at which a



1 student athlete is enrolled before the agent communicates or
2 attempts to communicate with:

3 (1) The athlete or, if the athlete is a minor, a parent or
4 guardian of the athlete, to influence the athlete or
5 parent or guardian to enter into an agency contract;
6 or

7 (2) Another individual to have that individual influence
8 the athlete or, if the athlete is a minor, the parent
9 or guardian of the athlete to enter into an agency
10 contract.

11 (g) If a communication or attempt to communicate with an
12 athlete agent is initiated by a student athlete or another
13 individual on behalf of the athlete, the agent shall notify in a
14 record the athletic director of any educational institution at
15 which the athlete is enrolled. The notification shall be made
16 not later than ten days after the communication or attempt to
17 communicate.

18 (h) An educational institution that becomes aware of a
19 violation of this chapter by an athlete agent shall make
20 notification of the violation to the director and any



1 professional league or players association with which the
2 institution is aware the agent is licensed or registered.

3 § -12 **Student athlete's right to cancel.** (a) A student
4 athlete or, if the athlete is a minor, the parent or guardian of
5 the athlete may cancel an agency contract by giving notice in a
6 record of cancellation to the athlete agent not later than
7 fourteen days after the contract is signed.

8 (b) A student athlete or, if the athlete is a minor, the
9 parent or guardian of the student athlete may not waive the
10 right to cancel an agency contract.

11 (c) If a student athlete, parent, or guardian cancels an
12 agency contract, the athlete, parent, or guardian is not
13 required to pay any consideration under the contract or return
14 any consideration received from the athlete agent to influence
15 the athlete to enter into the contract.

16 § -13 **Required records.** (a) An athlete agent shall
17 create and retain, for five years, records of the following:

18 (1) The name and address of each individual represented by
19 the agent;

20 (2) Each agency contract entered into by the agent; and



1 (3) The direct costs incurred by the agent in the
2 recruitment or solicitation of each student athlete to
3 enter into an agency contract.

4 (b) Records described in subsection (a) shall be open to
5 inspection by the director during normal business hours.

6 § -14 **Prohibited conduct.** (a) Except as otherwise
7 provided in subsection (c), an athlete agent, with the intent to
8 influence a student athlete or, if the athlete is a minor, a
9 parent or guardian of the athlete to enter into an agency
10 contract, shall not take any of the following actions or
11 encourage any other individual to take or assist any other
12 individual in taking any of the following actions on behalf of
13 the agent:

14 (1) Give materially false or misleading information or
15 make a materially false promise or representation;

16 (2) Furnish anything of value to the athlete before the
17 athlete enters into the contract; or

18 (3) Furnish anything of value to an individual other than
19 the athlete or another registered athlete agent.



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1 (b) An athlete agent shall not intentionally do any of the
2 following or encourage any other individual to do any of the
3 following on behalf of the agent:

4 (1) Initiate contact, directly or indirectly, with a
5 student athlete or, if the athlete is a minor, a
6 parent or guardian of the athlete, to recruit or
7 solicit the athlete, parent, or guardian to enter an
8 agency contract unless registered under this chapter;

9 (2) Fail to create, retain, or permit inspection of the
10 records required by section -13;

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

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

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

16 (6) Fail to notify a student athlete or, if the athlete is
17 a minor, a parent or guardian of the athlete, before
18 the athlete, parent, or guardian signs an agency
19 contract for a particular sport that the signing may
20 make the athlete ineligible to participate as a
21 student athlete in that sport.



1 (c) A certified athlete agent may pay expenses of a
2 student athlete and the athlete's family members incurred before
3 the signing of an agency contract; provided that the expenses
4 are:

5 (1) For the benefit of an athlete who is a member of a
6 class of athletes authorized to receive the benefit by
7 the national association that certified the agent;

8 (2) Of a type authorized to be paid by a certified agent
9 by the national association that certified the agent;
10 and

11 (3) For a purpose authorized by the national association
12 that certified the agent.

13 § -15 **Criminal penalty.** An athlete agent who violates
14 section -14 shall be guilty of a misdemeanor.

15 § -16 **Civil remedy.** (a) An educational institution or
16 student athlete may bring an action for damages against an
17 athlete agent if the institution or athlete is adversely
18 affected by an act or omission of the agent in violation of this
19 chapter. An educational institution or student athlete is
20 adversely affected by an act or omission of the agent only if,
21 because of the act or omission, the institution or an individual



1 who was a student athlete at the time of the act or omission and
2 enrolled in the institution:

3 (1) Is suspended or disqualified from participation in an
4 interscholastic or intercollegiate sports event by or
5 under the rules of a state or national federation or
6 association that promotes or regulates interscholastic
7 or intercollegiate sports; or

8 (2) Suffers financial damage.

9 (b) A plaintiff that prevails in an action under this
10 section may recover treble damages, punitive damages, costs, and
11 reasonable attorney's fees. An athlete agent found liable under
12 this section forfeits any right of payment for anything of
13 benefit or value provided to the student athlete and shall
14 refund any consideration paid to the agent by or on behalf of
15 the athlete.

16 (c) A violation of this chapter by the athlete agent shall
17 be an unfair or deceptive act or practice for purposes of
18 section 480-2.

19 § -17 **Civil penalty.** The director may assess a civil
20 penalty against an athlete agent not to exceed \$50,000 for a
21 violation of this chapter. Fines shall be deposited with the



1 director to the credit of the compliance resolution fund
2 pursuant to section 26-9(o). Unless otherwise expressly
3 provided, the remedies or penalties provided by this chapter are
4 cumulative to each other and to the remedies or penalties
5 available under all other laws of this State.

6 **§ -18 Relation to Electronic Signatures in Global and**
7 **National Commerce Act.** This chapter modifies, limits, or
8 supersedes the Electronic Signatures in Global and National
9 Commerce Act (15 U.S.C. §7001 et seq.), but does not modify,
10 limit, or supersede section 101(c) of that act (15 U.S.C.
11 §7001(c)) or authorize electronic delivery of any of the notices
12 described in section 103(b) of that act (15 U.S.C. §7003(b))."

13 SECTION 3. Section 92-28, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§92-28 State service fees; increase or decrease of.** Any
16 law to the contrary notwithstanding, the fees or other nontax
17 revenues assessed or charged by any board, commission, or other
18 governmental agency may be increased or decreased by the body in
19 an amount not to exceed fifty per cent of the statutorily
20 assessed fee or nontax revenue, to maintain a reasonable
21 relation between the revenues derived from such fee or nontax



1 revenue and the cost or value of services rendered,
2 comparability among fees imposed by the State, or any other
3 purpose [~~which~~] that it may deem necessary and reasonable;
4 provided that:

5 (1) The authority to increase or decrease fees or nontax
6 revenues shall be subject to the approval of the
7 governor and extend only to the following: chapters
8 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189,
9 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A,
10 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431,
11 436E, 436H, 437, 437B, 438, 439, 440, 440E, 441, 442,
12 443B, 444, 447, 448, 448E, 448F, 448H, 451A, 451J,
13 452, 453, 453D, 455, 456, 457, 457A, 457B, 457G, 458,
14 459, 460J, 461, 461J, 462A, 463, 463E, 464, 465, 465D,
15 466, 466D, 466K, 467, 467E, 468E, 468L, 468M, 469,
16 471, 472, [~~481E~~] _____, 482, 482E, 484, 485A, 501,
17 502, 505, 514B, 514E, 572, 574, and 846 (part II) and
18 any board, commission, program, or entity created
19 pursuant to title 25 and assigned to the department of
20 commerce and consumer affairs or placed within the
21 department for administrative purposes;



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- 1 (2) The authority to increase or decrease fees or nontax
2 revenues under the chapters listed in paragraph (1)
3 that are established by the department of commerce and
4 consumer affairs shall apply to fees or nontax
5 revenues established by statute or rule;
- 6 (3) The authority to increase or decrease fees or nontax
7 revenues established by the University of Hawaii under
8 chapter 304A shall be subject to the approval of the
9 board of regents; provided that the board's approval
10 of any increase or decrease in tuition for regular
11 credit courses shall be preceded by an open public
12 meeting held during or prior to the semester preceding
13 the semester to which the tuition applies;
- 14 (4) This section shall not apply to judicial fees as may
15 be set by any chapter cited in this section;
- 16 (5) The authority to increase or decrease fees or nontax
17 revenues pursuant to this section shall be exempt from
18 the public notice and public hearing requirements of
19 chapter 91; and
- 20 (6) Fees for copies of proposed and final rules and public
21 notices of proposed rulemaking actions under chapter



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1 91 shall not exceed 10 cents a page, as required by
2 section 91-2.5."

3 SECTION 4. Chapter 481E, Hawaii Revised Statutes, is
4 repealed.

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.

8

INTRODUCED BY: *Acely H. Beh*
By Request



S.B. NO. 18

Report Title:

Athlete Agents; Revised Uniform Athlete Agents Act; Student Athletes; Regulation; Department of Commerce and Consumer Affairs

Description:

Adopts the Revised Uniform Athlete Agents Act, which: expands the definition of "athlete agent", who shall register with the Director of Commerce and Consumer Affairs, to include individuals who, for compensation or the anticipation of compensation, serve a student athlete as a financial advisor or business manager; requires reciprocity for athlete agents who are registered in more than 1 state; strengthens requirements for athlete agent contracts; and strengthens requirements under which athlete agents shall notify the educational institution at which a student athlete is enrolled.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

