

ACT 193

H.B. NO. 66

A Bill for an Act Relating to Athlete Agents.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the recruitment of a student athlete while the student athlete is still enrolled in an educational institution may cause substantial eligibility or other problems for the student and the school, especially when the athlete is not aware of the implications of signing the agency agreement or where agency is established without notice to the athletic director of the school. During the 2007 regular legislative session, as part of an effort to counteract this problem, Hawaii joined approximately forty other states by enacting the Uniform Athlete Agents Act, codified as chapter 481E, Hawaii Revised Statutes.

The legislature further finds that the Uniform Athlete Agents Act provides for the uniform registration, certification, and a mandated criminal history disclosure of sports agents seeking to represent student athletes who are or may be eligible to participate in intercollegiate sports; imposes specified contract terms on these agreements to the benefit of student athletes; and provides educational institutions with a right to notice along with a civil cause of action for damages resulting from a breach of specified duties. According to an article in

the November 7, 2014, edition of the Wall Street Journal, some college officials say that the Uniform Athlete Agents Act has helped reduce improper contact between agents and student athletes.

The legislature additionally finds that since the enactment of chapter 481E, Hawaii Revised Statutes, related problems have surfaced in another quarter, namely, financial advisers. The Wall Street Journal article also noted that:

- (1) Reports from college athletic officials that “brokers, insurance agents, bankers and other types of financial advisers often contact athletes who are promising pro prospects”;
- (2) Some of the financial advisers who sought to represent student athletes became the subjects of industry disciplinary or criminal proceedings; and
- (3) “The double standard between financial advisers and sports agents has long bothered some college athletic officials, regulators and even players. Agents were reined in [by the Uniform Athlete Agents Act] ... while leaving players as vulnerable as ever to unscrupulous financial advisers.”

The purpose of this Act is to repeal chapter 481E, Hawaii Revised Statutes, and replace it with a new Revised Uniform Athlete Agents Act that applies to financial advisers under certain circumstances, and make the law more effective and enforceable. More specifically, as compared to chapter 481E, Hawaii Revised Statutes, this Act:

- (1) Expands the definition of “athlete agent” to include individuals who provide certain financial and business services to student athletes under certain circumstances;
- (2) Includes a true reciprocal registration requirement under which registrations by an agent in one state shall be recognized in another state, subject to certain conditions;
- (3) Requires agency contracts to:
 - (A) Contain a statement that the athlete agent is registered in the state in which the contract is signed and list any other state in which the agent is registered; and
 - (B) Be accompanied by a separate record signed by the student athlete acknowledging that signing the contract may result in the loss of eligibility to participate in the athlete’s sport as a student athlete;
- (4) Provides civil penalties to athlete agents who fail to notify the educational institution at which a student athlete is enrolled before contacting a student athlete;
- (5) Requires an athlete agent who has a preexisting relationship with a student athlete who receives an athletic scholarship from the institution to notify the institution if the agent has or intends to recruit or solicit the student athlete to enter into an agency contract;
- (6) Adds criminal penalties for an athlete agent who encourages another individual to take an action the agent is prohibited from taking on behalf of the agent; and
- (7) Gives student athletes a right of action against an athlete agent who violates the Act.

The legislature notes that the National Collegiate Athletic Association has officially endorsed the Revised Uniform Athlete Agents Act.

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

**“CHAPTER
REVISED UNIFORM ATHLETE AGENTS ACT**

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

§ -2 Definitions. As used in this chapter:

“Agency contract” means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional-sports-services contract or endorsement contract.

“Athlete agent”:

- (1) Means an individual, whether or not registered under this chapter, who:
 - (A) Directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;
 - (B) For compensation or in anticipation of compensation related to a student athlete’s participation in athletics:
 - (i) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or
 - (ii) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or
 - (C) In anticipation of representing a student athlete for a purpose related to the athlete’s participation in athletics:
 - (i) Gives consideration to the student athlete or another person;
 - (ii) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or
 - (iii) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; and
- (2) Does not include an individual who:
 - (A) Acts solely on behalf of a professional sports team or organization; or
 - (B) Is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:
 - (i) Also recruits or solicits the athlete to enter into an agency contract;
 - (ii) Also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or
 - (iii) Receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

“Athletic director” means the individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for female students

and male students, the athletic program for females or the athletic program for males, as appropriate.

“Certified athlete agent” means an athlete agent registered under this chapter who is certified to be an athlete agent in a particular sport by a bona fide national association that promotes or regulates intercollegiate athletics and establishes eligibility standards for participation by a student athlete in that sport.

“Director” means the director of commerce and consumer affairs.

“Educational institution” includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.

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

“Enrolled” or “enrolls” means registered for courses and attending athletic practice or class.

“Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics.

“Interscholastic sport” means a sport played between educational institutions that are not community colleges, colleges, or universities.

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

“Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

“Professional-sports-services contract” means an agreement under which an individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.

“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.

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

“Registration” means registration as an athlete agent under this chapter.

“Sign” means, with present intent to authenticate or adopt a record:

- (1) To execute or adopt a tangible symbol; or
- (2) To attach to or logically associate with the record an electronic symbol, sound, or process.

“State” means a state of the United States, the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

“Student athlete” means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic sport or intercollegiate sport. The term

does not include an individual permanently ineligible to participate in a particular interscholastic sport or intercollegiate sport for that sport.

§ -3 Director; powers and duties; authority; procedure. (a) In addition to any other powers and duties authorized by law, the director shall have the powers and duties to:

- (1) Grant, deny, renew, refuse to renew, restore, terminate, reinstate, condition, restrict, suspend, or revoke a registration issued pursuant to this chapter;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91 as the director finds necessary to carry out this chapter;
- (3) Administer, coordinate, and enforce this chapter;
- (4) Discipline a registered athlete agent on grounds specified by this chapter or chapter 436B or for any violation of rules adopted by the director pursuant to this chapter; and
- (5) Refuse to register a person for failure to meet the registration requirements in this chapter or for any reason specified by this chapter as grounds to discipline an athlete agent.

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

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

§ -4 Athlete agent; registration required; void contract. (a) Except as otherwise provided in subsection (b), an individual may not act as an athlete agent in this State without holding a certificate of registration under this chapter.

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

- (1) A student athlete or another person acting on behalf of the athlete initiates communication with the individual; and
- (2) Not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this State.

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

§ -5 Registration as athlete agent; application; requirements; reciprocal registration. (a) An applicant for registration as an athlete agent shall submit an application for registration to the director in a form prescribed by the director. The applicant shall be an individual, and the application shall be signed by the applicant under penalty of perjury or unsworn falsification to authorities, as applicable. The application shall contain at least the following:

- (1) The name and date and place of birth of the applicant and the following contact information for the applicant:
 - (A) The address of the applicant's principal place of business;
 - (B) Work and mobile telephone numbers; and
 - (C) Any means of communicating electronically, including a facsimile number, electronic mail address, and personal and business or employer websites;

- (2) The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;
- (3) Each social media account with which the applicant or the applicant's business or employer is affiliated;
- (4) Each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;
- (5) A description of the applicant's:
 - (A) Formal training as an athlete agent;
 - (B) Practical experience as an athlete agent; and
 - (C) Educational background relating to the applicant's activities as an athlete agent;
- (6) The name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the athlete is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;
- (7) The name and address of each person that:
 - (A) Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five per cent or greater of the athlete agent's business if the business is not a corporation; and
 - (B) Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five per cent or greater in the corporation;
- (8) A description of the status of any application by the applicant, or any person named under paragraph (7), for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;
- (9) Whether the applicant, or any person named under paragraph (7), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this State and, if so, identification of:
 - (A) The crime;
 - (B) The law-enforcement agency involved; and
 - (C) If applicable, the date of the conviction and the fine or penalty imposed;
- (10) Whether, within fifteen years before the date of application, the applicant, or any person named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of incapacity and, if so, the date and a full explanation of each proceeding;
- (11) Whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment or a judgment of continuing effect, including support and maintenance or a domestic order in the nature of child support, which is not current at the date of the application;
- (12) Whether, within ten years before the date of application, the applicant, or any person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

- (13) Whether there has been any administrative or judicial determination that the applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or fraudulent representation;
- (14) Each instance in which conduct of the applicant, or any person named under paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution;
- (15) Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under paragraph (7), arising out of occupational or professional conduct;
- (16) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under paragraph (7), as an athlete agent in any state;
- (17) Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;
- (18) If the applicant is certified or registered by a professional league or players' association:
 - (A) The name of the league or association;
 - (B) The date of certification or registration, and the date of expiration of the certification or registration, if any; and
 - (C) If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and
- (19) Any additional information required by the director.
 - (b) Instead of submitting an athlete agent application for registration pursuant to subsection (a), an individual registered as an athlete agent in another state that has adopted the Revised Uniform Athlete Agents Act may apply for registration as an athlete agent in this State by submitting to the director:
 - (1) A copy of the application for registration in the other state;
 - (2) A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of unsworn falsification to authorities; and
 - (3) A copy of the certificate of registration from the other state.
 - (c) The director shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the director determines:
 - (1) The application and registration requirements of the other state are substantially similar to or more restrictive than this chapter; and
 - (2) The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.
 - (d) For purposes of implementing subsection (c), the director shall:
 - (1) Cooperate with national organizations concerned with athlete agent issues and agencies in other states that register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this chapter; and
 - (2) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

§ -6 Certificate of registration; issuance or denial; renewal. (a) Except as otherwise provided in subsection (b), the director shall issue a certificate of registration to an applicant for registration who complies with section -5(a).

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

- (1) Pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this State;
- (2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
- (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
- (4) Engaged in conduct prohibited by section -14;
- (5) Had a registration as an athlete agent suspended, revoked, or denied in any state;
- (6) Been refused renewal of registration as an athlete agent in any state;
- (7) Engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or
- (8) Engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

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

- (1) How recently the conduct occurred;
- (2) The nature of the conduct and the context in which it occurred; and
- (3) Other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the director. The applicant shall sign the application for renewal under penalty of unsworn falsification to authorities and include current information on all matters required in an original application for registration.

(e) An athlete agent registered under section -5(c) may renew the registration by proceeding under subsection (d) or, if the registration in the other state has been renewed, by submitting to the director copies of the application for renewal in the other state and the renewed registration from the other state. The director shall renew the registration if the director determines:

- (1) The registration requirements of the other state are substantially similar to or more restrictive than this chapter; and
- (2) The renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(f) A certificate of registration or renewal of registration under this chapter shall be valid for two years and shall be renewed by June 30 of every even-numbered year, upon the payment of a renewal fee within sixty days before the expiration of the registration. Registrations that have been forfeited may be restored within one year of the forfeiture date upon payment of renewal and restoration fees. Failure to restore a forfeited registration within one year shall result in the automatic termination of the registration. A person whose registra-

tion has been terminated pursuant to this section shall be required to reapply for a new registration as a new applicant.

§ -7 Limitation, suspension, revocation, or refusal to renew registration. (a) The director may limit, suspend, revoke, or refuse to renew a registration of an individual registered under section -6(a) for conduct that would have justified refusal to issue a certificate of registration under section -6(b).

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

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

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

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

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

(b) An agency contract shall contain:

- (1) A statement that the athlete agent is registered as an athlete agent in this State and a list of any other states in which the agent is registered as an athlete agent;
- (2) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the 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;
- (3) The name of any person not listed in the agent's application for registration or renewal of registration that will be compensated because the athlete signed the contract;
- (4) A description of any expenses the athlete agrees to reimburse;
- (5) A description of the services to be provided to the athlete;
- (6) The duration of the contract; and
- (7) The date of execution.

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

“WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

- (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT;**
- (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN SEVENTY-TWO HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC**

EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

- (3) YOU MAY CANCEL THIS CONTRACT WITHIN FOURTEEN DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.”

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

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

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

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

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

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

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

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

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

- (1) The relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or
- (2) The agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.
- (f) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:
 - (1) The athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or
 - (2) Another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.
- (g) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification shall be made not later than ten days after the communication or attempt to communicate.
- (h) An educational institution that becomes aware of a violation of this chapter by an athlete agent shall make notification of the violation to the director and any professional league or players' association with which the institution is aware the agent is licensed or registered.

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

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

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

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

- (1) The name and address of each individual represented by the agent;
- (2) Each agency contract entered into by the agent; and
- (3) The direct costs incurred by the agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

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

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

- (1) Give materially false or misleading information or make a materially false promise or misrepresentation;
- (2) Furnish anything of value to the athlete before the athlete enters into the contract; or

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

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

- (1) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency contract unless registered under this chapter;
- (2) Fail to create, retain, or permit inspection of the records required by section -13;
- (3) Fail to register when required by section -4;
- (4) Provide materially false or misleading information in an application for registration or renewal of registration;
- (5) Predate or postdate an agency contract; or
- (6) Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

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

- (1) For the benefit of an athlete who is a member of a class of athletes authorized to receive the benefit by the bona fide national association that certified the agent;
- (2) Of a type authorized to be paid by a certified agent by the bona fide national association that certified the agent; and
- (3) For a purpose authorized by the bona fide national association that certified the agent.

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

§ -16 Civil remedy. (a) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this chapter. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution:

- (1) Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic sports or intercollegiate sports; or
- (2) Suffers financial damage.

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

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

§ -17 Civil penalty. The director may assess a civil penalty against an athlete agent not to exceed \$50,000 for a violation of this chapter. Fines shall be deposited with the director to the credit of the compliance resolution fund pursuant to section 26-9(o). Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§ -18 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, title 15 United States Code section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, title 15 United States Code section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, title 15 United States Code section 7003(b)."

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

"§92-28 State service fees; increase or decrease of. Any law to the contrary notwithstanding, the fees or other nontax revenues assessed or charged by any board, commission, or other governmental agency may be increased or decreased by the body in an amount not to exceed fifty per cent of the statutorily assessed fee or nontax revenue, to maintain a reasonable relation between the revenues derived from such fee or nontax revenue and the cost or value of services rendered, comparability among fees imposed by the State, or any other purpose which it may deem necessary and reasonable; provided that:

- (1) The authority to increase or decrease fees or nontax revenues shall be subject to the approval of the governor and extend only to the following: chapters 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189, 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A, 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431, 436E, 436H, 437, 437B, 438, 439, 440, 440E, 441, 442, 443B, 444, 447, 448, 448E, 448F, 448H, 451A, 451J, 452, 453, 453D, 455, 456, 457, 457A, 457B, 457G, 458, 459, 460J, 461, 461J, 462A, 463, 463E, 464, 465, 465D, 466, 466D, 466K, 467, 467E, 468E, 468L, 468M, 469, 471, 472, [481E,] 482, 482E, 484, 485A, 501, 502, 505, 514B, 514E, 572, 574, and 846 (part II) and any board, commission, program, or entity created pursuant to title 25 and assigned to the department of commerce and consumer affairs or placed within the department for administrative purposes;
- (2) The authority to increase or decrease fees or nontax revenues under the chapters listed in paragraph (1) that are established by the department of commerce and consumer affairs shall apply to fees or nontax revenues established by statute or rule;
- (3) The authority to increase or decrease fees or nontax revenues established by the University of Hawaii under chapter 304A shall be subject to the approval of the board of regents; provided that the board's approval of any increase or decrease in tuition for regular credit courses shall be preceded by an open public meeting held during or prior to the semester preceding the semester to which the tuition applies;
- (4) This section shall not apply to judicial fees as may be set by any chapter cited in this section;

ACT 193

- (5) The authority to increase or decrease fees or nontax revenues pursuant to this section shall be exempt from the public notice and public hearing requirements of chapter 91; and
- (6) Fees for copies of proposed and final rules and public notices of proposed rulemaking actions under chapter 91 shall not exceed 10 cents a page, as required by section 91-2.5.”

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

SECTION 5. Statutory material to be repealed is bracketed and stricken.

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

(Approved July 2, 2019.)