

ENROLLED ACT NO. 105, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2005 GENERAL SESSION

AN ACT relating to athletic agents; providing for disclosure as specified; providing requirements for contracts and contacts with student athletes as specified; providing definitions; providing criminal and civil remedies; and providing for an effective date.

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

Section 1. W.S. 33-44-101 through 33-44-114 are created to read:

CHAPTER 44
UNIFORM ATHLETE AGENTS ACT

33-44-101. Short title.

This act may be cited as the "Uniform Athlete Agents Act."

33-44-102. Definitions.

(a) As used in this act:

(i) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract;

(ii) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, grandparent or legal guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. The term includes an

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individual who represents to the public that the individual is an athlete agent;

(iii) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate;

(iv) "Contact" means a communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract;

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

(vi) "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 for the promotion or regulation of collegiate athletics;

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

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(viii) "Professional sports services contract" means an agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(ix) "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;

(x) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(xi) "Student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport; and

(xii) "This act" means W.S. 33-44-101 through 33-44-114.

33-44-103. Service of process.

By engaging in the business of an athlete agent in this state, a nonresident individual appoints the secretary of state as the individual's agent to accept service of process in any civil action related to the individual's business as an athlete agent in this state.

33-44-104. Athlete agents; delivery of disclosure form required.

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(a) Except as otherwise provided in subsection (b) of this section, an individual may not act as an athlete agent in this state unless on the day of initial contact with any student athlete the athlete agent delivers to the student athlete the athlete agent disclosure form as required by W.S. 33-44-105.

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

(i) A student athlete or another acting on behalf of the student athlete initiates communication with the individual; and

(ii) Within seven (7) days after an initial act as an athlete agent, the individual delivers an athlete agent disclosure form to the student athlete.

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

33-44-105. Athlete agent disclosure form; requirements.

(a) The athlete agent disclosure form shall be in a record executed in the name of an individual and signed by the athlete agent under penalty of perjury and, except as otherwise provided in subsection (b) of this section, must state or contain:

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

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

(iii) Any business or occupation engaged in by the athlete agent for the five (5) years next preceding the date of execution of the athlete agent disclosure form;

(iv) A description of the athlete agent's:

(A) Formal training as an athlete agent;

(B) Practical experience as an athlete agent; and

(C) Educational background relating to the athlete agent's activities as an athlete agent;

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

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

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

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

(B) With respect to a corporation employing the athlete agent, the officers, directors and any

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shareholder of the corporation with a five percent (5%) or greater interest;

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

(ix) Whether there has been any administrative or judicial determination that the athlete agent or any other person named pursuant to paragraph (vii) of this subsection has made a false, misleading, deceptive or fraudulent representation;

(x) Any instance in which the conduct of the athlete agent or any other person named pursuant to paragraph (vii) of this subsection resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution;

(xi) Any sanction, suspension or disciplinary action taken against the athlete agent or any other person named pursuant to paragraph (vii) of this subsection arising out of occupational or professional conduct; and

(xii) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the athlete agent or any other person named pursuant to paragraph (vii) of this subsection as an athlete agent in any state.

(b) An individual who has submitted an application for, and received a certificate of or a renewal of a

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certificate of, registration or licensure as an athlete agent in another state may submit a copy of the application and a valid certificate of registration or licensure from the other state in lieu of submitting an athlete agent disclosure form in the form prescribed pursuant to subsection (a) of this section, but only if the application to the other state:

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

(ii) Contains information substantially similar to or more comprehensive than that required in an athlete agent disclosure form under subsection (a) of this section; and

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

33-44-106. Disqualifications.

(a) No person may engage in the business of an athlete agent who has:

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

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

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(iii) Engaged in conduct prohibited by W.S. 33-44-111;

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

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

33-44-107. Form of contract.

(a) An agency contract shall be in a record signed by the parties.

(b) An agency contract shall state or contain:

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

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

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

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

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(v) The duration of the contract; and

(vi) The date of execution.

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

**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) BOTH YOU AND YOUR ATHLETE AGENT ARE
REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU
HAVE AN ATHLETIC DIRECTOR, AT LEAST SEVENTY-TWO
(72) HOURS PRIOR TO ENTERING INTO AN AGENCY
CONTRACT AND AGAIN WITHIN SEVENTY-TWO (72) HOURS
AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

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

(d) A copy of the athlete agent disclosure form delivered to the student athlete shall be attached to the agency contract.

(e) An agency contract that does not conform to this section is voidable by the student athlete.

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

33-44-108. Notice to educational institution.

(a) At least seventy-two (72) hours prior to entering into an agency contract, the athlete agent shall give notice in a record of the existence of the contract and shall provide a copy of the athlete agent disclosure form to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(b) Within seventy-two (72) 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 and shall provide a copy of the athlete agent disclosure form to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(c) At least seventy-two (72) hours prior to entering into an agency contract, the student athlete shall give notice in a record of the existence of the contract and shall provide a copy of the athlete agent disclosure form to the athletic director of the educational institution at which the student athlete is enrolled.

(d) Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs

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first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that he has entered into an agency contract and shall provide a copy of the athlete agent disclosure form.

33-44-109. Student athlete's right to cancel.

(a) A student athlete may cancel an agency contract by giving notice in a record to the athlete agent of the cancellation within fourteen (14) days after the contract is signed.

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

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

33-44-110. Required records; retention.

(a) An athlete agent shall retain the following records for a period of five (5) years:

(i) The name and address of each individual represented by the athlete agent;

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

(iii) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete.

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

33-44-111. Prohibited acts.

(a) An athlete agent may not do any of the following with the intent to induce a student athlete to enter into an agency contract:

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

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

(iii) Furnish anything of value to any individual other than the student athlete or another registered athlete agent.

(b) An athlete agent may not intentionally:

(i) Initiate contact with a student athlete unless providing the student athlete with the athlete agent disclosure form as provided in W.S. 33-44-104;

(ii) Refuse or willfully fail to retain or produce in response to subpoena the records required by W.S. 33-44-110;

(iii) Fail to disclose information required by W.S. 33-44-105;

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(iv) Provide materially false or misleading information in an athlete agent disclosure form;

(v) Predate or postdate an agency contract;

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

(vii) Ask or allow a student athlete to waive or attempt to waive rights under this act;

(viii) Fail to give notice required under W.S. 33-44-108; or

(ix) Engage in the business of an athlete agent in this state:

(A) At any time after conviction under W.S. 33-44-112; or

(B) Within five (5) years of entry of a civil judgment under W.S. 33-44-113.

33-44-112. Criminal and civil penalties.

The commission of any act prohibited by W.S. 33-44-111 by an athlete agent is a felony punishable by imprisonment of not less than one (1) year, a fine of not more than ten thousand dollars (\$10,000.00), or both. In addition to any criminal penalties, the court may assess a civil penalty of up to ten thousand dollars (\$10,000.00) for a violation of W.S. 33-44-111. Any penalty collected under the provisions of this section shall be deposited in the public school fund of

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the appropriate county as required by article 7, section 5 of the Wyoming constitution.

33-44-113. Civil remedies.

(a) An educational institution has a right of action against an athlete agent or a former student athlete for damages caused by a violation of this act. In an action under this section, the court may award to the prevailing party costs and reasonable attorneys' fees.

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

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

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

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

33-44-114. Application; construction.

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In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter of this act among states that enact it.

Section 2. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk