

2008 -- H 7337 SUBSTITUTE A

LC00633/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - ATHLETIC AGENTS

Introduced By: Representatives Schadone, Winfield, Brien, Rice, and Corvese

Date Introduced: February 05, 2008

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 574 of the General Laws entitled "Athlete Agents" is hereby
2 repealed in its entirety.

3 ~~CHAPTER 5-74~~

4 ~~Athlete Agents~~

5 ~~**5-74-1. Definitions.** For the purposes of this chapter:~~

6 ~~-(1) "Agent contract" means any contract or agreement under which an athlete authorizes~~
7 ~~an athlete agent to negotiate or to solicit on behalf of the athlete with one or more professional~~
8 ~~sports teams for the employment of the athlete by one or more professional sports teams, in the~~
9 ~~sport or sports in which the athlete is performing at the intercollegiate level.~~

10 ~~-(2) "Athlete agent" means any person who, for compensation, either now or in the future,~~
11 ~~directly or indirectly recruits or solicits an athlete to enter into an agent contract, professional~~
12 ~~sports services contract or financial services contract with that person or another person, or who~~
13 ~~for a fee procures, offers, promises or attempts to obtain employment for an athlete with a~~
14 ~~professional sports team.~~

15 ~~-(3) "Financial services contract" means any contract or agreement under which an athlete~~
16 ~~authorizes an athlete agent to provide financial services for the athlete, including the making and~~
17 ~~execution of investment and other financial decisions by the agent on behalf of the athlete.~~

18 ~~-(4) "Office" means the office of higher education.~~

19 ~~-(5) "Personal service contract" means the execution by an athlete of a personal service~~

1 ~~contract with the owner or prospective owner of a professional sports team for the purposes of~~
2 ~~future athletic services is equivalent to employment with a professional sports team.~~

3 ~~(6) "Student athlete" means an individual who is enrolled in or has indicated in writing~~
4 ~~the intention to enroll in an institution of higher education in the state of Rhode Island.~~

5 ~~**5-74-2. Registration with the office of higher education.** --- An athlete agent shall~~
6 ~~register annually with the office of higher education before the athlete agent may contact an~~
7 ~~athlete either directly or indirectly, or enter into a contract with a student athlete who attends a~~
8 ~~college or university in the state. The annual fee for the registration shall be one hundred dollars~~
9 ~~(\$100).~~

10 ~~**5-74-3. Disclosure statement required.** --- (a) Upon registration, the athlete agent shall~~
11 ~~submit to the office of higher education and to every institution of higher education in the state~~
12 ~~with an athletic program a statement which shall contain the following information:~~

13 ~~(1) The registrant's name and street address of the registrant's principal place of business;~~

14 ~~(2) The registrant's educational background, training and experience related to serving as~~
15 ~~an athlete agent; and~~

16 ~~(3) The names and addresses of all parties who are financially interested as partners,~~
17 ~~associates or shareholders of the business of the registrant and all persons for whom the registrant~~
18 ~~is working as an independent contractor.~~

19 ~~(b) No applicant for registration may have, in any state, within five (5) years prior to the~~
20 ~~date of application, been found guilty of any felony or misdemeanor, or entered a plea of no~~
21 ~~contest to any crime, which relates to the registrant's practice as an athlete agent. The office of~~
22 ~~higher education may withhold registration until the results of the criminal record checks are~~
23 ~~received.~~

24 ~~**5-74-4. Financial responsibility required of registrant.** --- (a) The registrant shall~~
25 ~~submit proof of professional liability insurance that would cover damages in an amount no less~~
26 ~~than one million dollars (\$1,000,000); provided, that any actual damages shall not be limited to~~
27 ~~the amount of the liability insurance provided in this section.~~

28 ~~(b) If the registrant is an attorney licensed to practice law in Rhode Island, the registrant~~
29 ~~may choose, in lieu of a surety bond, to submit proof of liability insurance that would cover~~
30 ~~damages in an amount equal to the amount set forth in subsection (a) of this section; provided,~~
31 ~~that any action for damages shall not be limited to the amount of the bond or of the liability~~
32 ~~insurance as provided in this section.~~

33 ~~**5-74-5. Contractual provisions -- Requirements.** --- (a) Every athlete contract shall be~~
34 ~~in writing and shall indicate the fees and percentages to be paid to the athlete agent or corporation~~

1 ~~which he or she represents.~~

2 ~~-(b) In the event that a student athlete is enrolled as a student at an institution of higher~~
3 ~~education in Rhode Island, the athlete agent must file a copy of the contract with the athletic~~
4 ~~director of the institution before the contract is signed by the student athlete.~~

5 ~~-(c) The student athlete may rescind the contract by written notification to the athlete~~
6 ~~agent within fifteen (15) days after the contract is signed. The athlete's right to rescind the~~
7 ~~contract may not be waived.~~

8 ~~-(d) All contracts with student athletes must contain a written warning to the student~~
9 ~~athlete regarding possible loss of collegiate eligibility according to the regulations of the relevant~~
10 ~~national association.~~

11 ~~**5-74-6. Permitted contacts with student athletes.** -- (a) An athlete agent may contact a~~
12 ~~student athlete only as provided in this chapter. In the event that the student athlete is a minor, the~~
13 ~~agent must initiate contact with the student athlete's parents or legal guardians.~~

14 ~~-(b) An athlete agent may initiate contact only with those student athletes who have~~
15 ~~completed their collegiate eligibility (including post season tournaments).~~

16 ~~-(c) The athlete agent may provide information to eligible student athletes only after~~
17 ~~having provided the same information to the athletic director of the institution where the student~~
18 ~~athlete is enrolled.~~

19 ~~-(d) Each institution of higher education in Rhode Island may sponsor athlete agent~~
20 ~~interviews on its campus where the athlete agent may discuss with the student athlete the~~
21 ~~provision of legal and financial services. The athlete agent must comply with any regulations~~
22 ~~established by the institutional committee prior to initiating any contact with the student athlete.~~

23 ~~-(e) An athlete agent may contact a student athlete who has not completed his or her~~
24 ~~collegiate eligibility only if the student athlete initiates the contact. In such instances, the athlete~~
25 ~~agent must give prior notice of his or her intention to respond to the request to the athletic director~~
26 ~~of the institution where the student athlete is enrolled.~~

27 ~~**5-74-7. Prohibited acts.** -- An athlete agent shall not:~~

28 ~~-(1) Publish or cause to be published any false, fraudulent, or misleading information,~~
29 ~~representation, notice, or advertisement or give any false information or make any false promises~~
30 ~~or representations concerning any employment to any person;~~

31 ~~-(2) Divide fees with or receive compensation from a person or entity exempt under this~~
32 ~~act or a professional sports league or franchise or its representative or employee;~~

33 ~~-(3) Enter into any agreement, written or oral with any employee of the institution of~~
34 ~~higher education where the student athlete is enrolled, by which the athlete agent offers anything~~

1 ~~in return for the referral of any clients by the employee;~~

2 ~~-(4) Offer anything of value to induce an athlete to enter into an agreement by which the~~
3 ~~athlete-agent will represent the athlete; or~~

4 ~~-(5) Except as otherwise provided by this chapter, directly contact an athlete who is~~
5 ~~participating in any intercollegiate sport until after completion of the athlete's last intercollegiate~~
6 ~~contest and may not enter into an oral or written agreement that the athlete-agent will represent~~
7 ~~the athlete before the athlete's last intercollegiate contest.~~

8 ~~**5-74.8. Actions for damages by institutions of higher learning -- Damages and civil**~~

9 ~~**penalties.** -- (a) An institution of higher education, which is adversely affected by actions of an~~
10 ~~athlete-agent, shall be entitled to bring a civil action against an athlete-agent for damages. For the~~
11 ~~purposes of this section, an institution of higher education shall be deemed to be adversely~~
12 ~~affected, if, because of the unlawful activities of the athlete-agent, the institution is disqualified or~~
13 ~~suspended from participation in intercollegiate sports contests by a national association for the~~
14 ~~promotion and regulation of intercollegiate athletics and, because of that disqualification or~~
15 ~~suspension, the institution:~~

- 16 ~~-(1) Loses revenue from media coverage of sports contests;~~
- 17 ~~-(2) Loses the right to grant athletic scholarships in the sport affected;~~
- 18 ~~-(3) Loses the right to recruit athletes; or~~
- 19 ~~-(4) Otherwise suffers an adverse financial impact.~~

20 ~~-(b) An institution that prevails in a suit brought under this section shall be entitled to~~
21 ~~recover:~~

- 22 ~~-(1) Actual and punitive damages;~~
- 23 ~~-(2) Exemplary damages;~~
- 24 ~~-(3) Costs of court; and~~
- 25 ~~-(4) Reasonable attorney's fees.~~

26 ~~-(c) The recovery of damages shall not be limited by the amount of the surety bond or the~~
27 ~~liability insurance.~~

28 ~~-(d) An athlete-agent who violates this chapter may be assessed a civil penalty by the~~
29 ~~department of business regulation in an amount not to exceed ten thousand dollars (\$10,000).~~

30 ~~-(e) Any athlete-agent who violates any provision of this chapter shall be subject to~~
31 ~~forfeiture of any right of repayment for anything of value received by the student athlete as any~~
32 ~~inducement to enter into a contract.~~

33 ~~-(f) (1) Any athlete-agent who violates any provision of this chapter shall be guilty of a~~
34 ~~misdemeanor and, upon conviction, may be imprisoned for not more than one year, or fined not~~

1 ~~more than five hundred dollars (\$500), or both.~~

2 ~~(2) Any athlete agent who shall violate any provision of this chapter may also have his or~~
3 ~~her registration suspended and/or revoked.~~

4 ~~**5-74-9. Persons exempt.** -- This chapter shall not be construed to require any attorney at~~
5 ~~law licensed by the supreme court of this state to register as an athlete agent under this chapter;~~
6 ~~provided, that the attorney retains an active policy of professional liability insurance for the~~
7 ~~minimum amount of one million dollars (\$1,000,000) in coverage.~~

8 ~~**5-74-10. Severability.** -- If a provision of this chapter or its application to any person or~~
9 ~~circumstances is held invalid, the invalidity shall not affect other provisions or applications of the~~
10 ~~chapter which can be given effect without the invalid provision or applications, and to this end~~
11 ~~the provisions of this chapter are declared to be severable.~~

12 SECTION 2. Title 5 of the General Laws entitled "Businesses and Professions" is hereby
13 amended by adding thereto the following chapter:

14 CHAPTER 74.1

15 UNIFORM ATHLETE AGENTS ACT

16 **5-74.1-1. Definitions.** -- As used in this chapter:

17 (1) "Agency contract" means an agreement in which a student athlete authorizes a person
18 to negotiate or solicit on behalf of the student athlete a professional sports services contract or an
19 endorsement contract.

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

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

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

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

1 ability or performance.

2 (6) “Intercollegiate sport” means a sport played at the collegiate level for which
3 eligibility requirements for participation by a student athlete are established by a national
4 association for the promotion or regulation of collegiate athletics.

5 (7) “Person” means an individual, corporation, business trust, estate, trust, partnership,
6 limited liability company, association, joint venture, government, governmental subdivision,
7 agency, or instrumentality, public corporation, or any other legal or commercial entity.

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

11 (9) “Record” means information that is inscribed on a tangible medium or that is stored
12 in an electronic or other medium and is retrievable in perceivable form.

13 (10) “Registration” means registration as an athlete agent pursuant to this chapter.

14 (11) “State” means a state of the United States, the District of Columbia, Puerto Rico,
15 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
16 of the United States.

17 (12) “Student athlete” means an individual who engages in, is eligible to engage in, or
18 may be eligible in the future to engage in, any intercollegiate sport. If an individual is
19 permanently ineligible to participate in a particular intercollegiate sport, the individual is not a
20 student athlete for purposes of that sport.

21 **5-74.1-2. Service of process -- Subpoenas. --** (a) By acting as an athlete agent in this
22 state, a nonresident individual appoints the Rhode Island secretary of state as the individual’s
23 agent for service of process in any civil action in this state related to the individual’s acting as an
24 athlete agent in this state.

25 (b) The Rhode Island secretary of state may issue subpoenas for any material that is
26 relevant to the administration of this chapter.

27 **5-74.1-3. Athlete agents – Registration required – Void contracts. --** (a) Except as
28 otherwise provided in subsection (b), an individual may not act as an athlete agent in this state
29 without holding a certificate of registration under section 5-74 -5 or section 5-74-7.

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

32 (1) a student athlete or another person acting on behalf of the student athlete initiates
33 communication with the individual; and

34 (2) within seven (7) days after an initial act as an athlete agent, the individual submits an

1 application for registration as an athlete agent in this state.

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

4 **5-74.1-4. Registration as athlete agent – Form -- Requirements. --** (a) An applicant
5 for registration shall submit an application for registration to the secretary of state in a form
6 prescribed by the secretary of state. An application filed under this section is a public record. The
7 application must be in the name of an individual and, except as otherwise provided in subsection
8 (b) herein, signed or otherwise authenticated by the applicant under penalty of perjury and state
9 or contain:

10 (1) the name of the applicant and the address of the applicant’s principal place of
11 business;

12 (2) the name of the applicant’s business or employer, if applicable;

13 (3) any business or occupation engaged in by the applicant for the five (5) years next
14 preceding the date of submission of the application;

15 (4) a description of the applicant’s:

16 (i) formal training as an athlete agent;

17 (ii) practical experience as an athlete agent; and

18 (iii) educational background relating to the applicant’s activities as an athlete agent;

19 (5) the names and address of three (3) individuals not related to the applicant who are
20 willing to serve as references;

21 (6) the name, sport, and last known team for each individual for whom the applicant
22 acted as an athlete agent during the five (5) years next preceding the date of submission of the
23 application;

24 (7) the names and addresses of all persons who are:

25 (i) with respect to the athlete agent’s business if it is not a corporation, the partners,
26 members, officers, managers, associates, or profit shares of the business; and

27 (ii) with respect to a corporation employing the athlete agent, the officers, directors, and
28 any shareholder of the corporation having an interest of five percent (5%) or greater;

29 (8) whether the applicant or any person named pursuant to subdivision 5 -74-4(a)(7) has
30 been convicted of a crime that, if committed in this state, would be a crime involving moral
31 turpitude or a felony, and identify the crime;

32 (9) whether there has been any administrative or judicial determination that the applicant
33 or any person named pursuant to subdivision 5-74-4(a)(7) has made a false, misleading,
34 deceptive, or fraudulent representation;

1 (10) any instance in which the conduct of the applicant or any person named pursuant to
2 subdivision 5-74-4(a)(7) resulted in the imposition of a sanction, suspension, or declaration of
3 ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete
4 or educational institution;

5 (11) any sanction, suspension, or disciplinary action taken against the applicant or any
6 person named pursuant to subdivision 5-74-4(a)(7) arising out of occupational or professional
7 conduct; and

8 (12) whether there has been any denial of an application for, suspension or revocation of,
9 or refusal to renew, the registration or licensure of the applicant or any person named pursuant to
10 subdivision 5-74-4(a)(7) as an athlete agent in any state.

11 (b) An individual who has submitted an application for, and holds a certificate of
12 registration or licensure as an athlete agent in another state, may submit a copy of the application
13 and certificate in lieu of submitting an application in the form prescribed pursuant to subsection
14 5-74-4(a). The secretary of state shall accept the application and the certificate from the other
15 state as an application for registration in this state if the application to the other state:

16 (1) was submitted in the other state within six (6) months next preceding the submission
17 of the application in this state and the applicant certifies that the information contained in the
18 application is current;

19 (2) contains information substantially similar to or more comprehensive than that
20 required in an application submitted in this state; and

21 (3) was signed by the applicant under penalty of perjury.

22 **5-74.1-5. Certificate of registration; issuance or denial; renewal.** -- (a) Except as
23 otherwise provided in subsection (b) herein the secretary of state shall issue a certificate of
24 registration to an individual who complies with subsection 5-74-4 (a) or whose application has
25 been accepted under subsection 5-74-4 (b).

26 (b) The secretary of state may refuse to issue a certificate of registration if the secretary
27 of state determines that the applicant has engaged in conduct that has a significant adverse effect
28 on the applicant's fitness to act as an athlete agent. In making the determination, the secretary of
29 state may consider whether the applicant has:

30 (1) been convicted of a crime that, if committed in this state, would be a crime involving
31 moral turpitude or a felony;

32 (2) made a materially false, misleading, deceptive, or fraudulent representation in the
33 application or as an athlete agent;

34 (3) engaged in conduct that would disqualify the applicant from serving in a fiduciary

1 capacity;

2 (4) engaged in conduct prohibited by section 5-74-13;

3 (5) had a registration or licensure as an athlete agent suspended, revoked, or denied or
4 been refused renewal of registration or licensure as an athlete agent in any state;

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

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

10 (c) In making a determination under subsection (b) herein, the secretary of state shall
11 consider:

12 (1) how recently the conduct occurred;

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

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

15 (d) An athlete agent may apply to renew a registration by submitting an application for
16 renewal in a form prescribed by the secretary of state. An application filed under this section is a
17 public record. The application for renewal must be signed by the applicant under penalty of
18 perjury and must contain current information on all matters required in an original registration.

19 (e) An individual who has submitted an application for renewal of registration or
20 licensure in another state, in lieu of submitting an application for renewal in the form prescribed
21 pursuant to subsection (d) herein, may file a copy of the application for renewal and a valid
22 certificate of registration or licensure from the other state. The secretary of state shall accept the
23 application for renewal from the other state as an application for renewal in this state if the
24 application to the other state:

25 (1) was submitted in the other state within six (6) months next preceding the filing in this
26 state and the applicant certifies the information contained in the application for renewal is current;

27 (2) contains information substantially similar to or more comprehensive than that
28 required in an application for renewal submitted in this state; and

29 (3) was signed by the applicant under penalty of perjury.

30 (f) A certificate of registration or a renewal of a registration is valid for two (2) years.

31 (g) Upon the secretary of state's approval of any registration for an athlete agent, the
32 secretary of state's office will notify the athletic director of any institution of higher education
33 within the state of Rhode Island that participates in intercollegiate athletics at the Division I, II, or
34 III level by providing that office with a copy of the agent's registration and disclosure statements.

1 (2) If you have an athletic director, within seventy-two (72) hours after entering into this
2 contract, both you and your athlete agent must notify your athletic director; and

3 (3) You may cancel this contract within fourteen (14) days after signing it. Cancellation
4 of this contract may not reinstate your eligibility.

5 (d) An agency contract that does not conform to this section is voidable by the student
6 athlete. If a student athlete voids an agency contract, the student athlete is not required to pay any
7 consideration under the contract or to return any consideration received from the athlete agent to
8 induce the student athlete to enter into the contract.

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

11 **5-74.1-10. Notice to educational institution.** -- (a) Within seventy-two (72)
12 hours after entering into an oral or written agency contract or before the next scheduled athletic
13 event in which the student athlete may participate, whichever occurs first, the athlete agent shall
14 give notice in a record of the existence of the contract to the athletic director of the educational
15 institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to
16 believe the student athlete intends to enroll.

17 (b) Within seventy-two (72) hours after entering into an oral or written agency contract
18 or before the next athletic event in which the student athlete may participate, whichever occurs
19 first, the student athlete shall inform the athletic director of the educational institution at which
20 the student athlete is enrolled that he or she has entered into an agency contract.

21 **5-74.1-11. Student athlete's right to cancel.** -- (a) A student athlete may cancel an
22 agency contract by giving notice of the cancellation to the athlete agent in a record within
23 fourteen (14) days after the contract is signed.

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

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

28 **5-74.1-12. Required records.** -- (a) An athlete agent shall retain the following records
29 for a period of five (5) years:

30 (1) the name and address of each individual represented by the athlete agent;

31 (2) any agency contract entered into by the athlete agent; and

32 (3) any direct costs incurred by the athlete agent in the recruitment or solicitation of a
33 student athlete to enter into an agency contract.

34 (b) Records required by subsection (a) above to be retained are open to inspection by the

1 secretary of state during normal business hours.

2 **5-74.1-13. Prohibited conduct.** -- (a) An athlete agent, with the intent to induce a
3 student athlete to enter into an agency contract, may not:

4 (1) give any materially false or misleading information or make a materially false
5 promise or representation;

6 (2) furnish anything of value to a student athlete before the student athlete enters into the
7 agency contract; or

8 (3) furnish anything of value to any individual other than the student athlete or another
9 registered athlete agent.

10 (b) An athlete agent may not intentionally:

11 (1) initiate contract with a student athlete unless registered under this chapter;

12 (2) refuse or fail to retain or permit inspection of the records required to be retained by
13 section 5-74-12;

14 (3) fail to register when required by section 5-74-3;

15 (4) provide materially false or misleading information in an application for registration
16 or renewal of registration;

17 (5) predate or postdate an agency contract; or

18 (6) fail to notify a student athlete before the student athlete signs or otherwise
19 authenticates an agency contract for a particular sport that the signing or authentication may make
20 the student athlete ineligible to participate as a student athlete in that sport.

21 **5-74.1-14. Permitted contacts with student athletes.** -- (a) An athlete agent may: (1)
22 contact a student athlete only as provided in this chapter. In the event that the student athlete is a
23 minor, the agent must initiate contact with the student athlete's parents or legal guardians.

24 (2) Initiate contact only with those student athletes who have completed their collegiate
25 eligibility (including post-season tournaments).

26 (3) Provide information to eligible student athletes only after having provided the same
27 information to the athletic director of the institution where the student athlete is enrolled.

28 (4) Contact a student athlete who has not completed his or her collegiate eligibility only if
29 the student athlete initiates the contact. In such instances, the athlete agent must give prior notice
30 of his or her intention to respond to the request to the athletic director of the institution where the
31 athlete is enrolled.

32 (b) Each institution of higher education in Rhode Island may sponsor athlete agent
33 interviews on its campus where the athlete agent may discuss with the student athlete the provision
34 of legal and financial services. The athlete agent must comply with any regulations established

1 by the institutional committee prior to initiating any contact with the student athlete.

2 **5-74.1-15. Criminal penalties.** -- An athlete agent who violates section 5-74-13 is
3 guilty of a misdemeanor.

4 **5-74.1-16. Civil remedies.** -- (a) An educational institution has a right of action against
5 an athlete agent or a former student athlete for damages caused by a violation of this chapter. In
6 an action under this section, the court may award to the prevailing party costs and reasonable
7 attorneys' fees.

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

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

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

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

21 **5-74.1-17. Administrative penalty.** – The secretary of state may assess a civil penalty
22 against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of
23 this chapter.

24 **5-74.1-18. Electronic signatures in global and national commerce act.** -- The
25 provisions of this chapter governing the legal effect, validity, or enforceability of electronic
26 records or signatures, and of contracts formed or performed with the use of such records or
27 signatures conform to the requirements of section 102 of the Electronic Signatures in Global and
28 National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and
29 limit the Electronic Signatures in Global and National Commerce Act.

30 **5-74.1-19. Severability.** -- If any provision of this chapter or its application to any
31 person or circumstance is held invalid, the invalidity does not affect other provisions or
32 applications of this chapter which can be given effect without the invalid provision or application,
33 and to this end the provisions of this chapter are severable.

34

1 SECTION 3. This act shall take effect upon passage.

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LC00633/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS - ATHLETIC AGENTS

- 1 This act would create a uniform athlete agent act to regulate the business of sports
- 2 agency.
- 3 This act would take effect upon passage.

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LC00633/SUB A
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