

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – ATHLETIC AGENTS

Introduced By: Representatives Carter, Lewiss, and Benson

Date Introduced: January 09, 2002

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "Businesses and Professions" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 74

4 UNIFORM ATHLETE AGENTS ACT

5 5-74-1. Definitions . -- In this chapter: (1) "Agency contract" means an agreement in
6 which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a
7 professional sports services contract or an endorsement contract.

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

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

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

20 (5) "Endorsement contract" means an agreement under which a student athlete is

1 employed or receives consideration to use on behalf of the other party any value that the student
2 athlete may have because of publicity, reputation, following, or fame obtained because of athletic
3 ability or performance.

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

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

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

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

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

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

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

23 **5-74-2. Service of process -- Subpoenas. --** (a) By acting as an athlete agent in this
24 state, a nonresident individual appoints the Rhode Island secretary of state as the individual’s
25 agent for service of process in any civil action in this state related to the individual’s acting as an
26 athlete agent in this state.

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

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

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

34 (1) a student athlete or another person acting on behalf of the student athlete initiates

1 communication with the individual; and

2 (2) within seven (7) days after an initial act as an athlete agent, the individual submits an
3 application for registration as an athlete agent in this state.

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

6 **5-74-4. Registration as athlete agent – Form -- Requirements. --** (a) An applicant for
7 registration shall submit an application for registration to the secretary of state in a form
8 prescribed by the secretary of state. An application filed under this section is a public record. The
9 application must be in the name of an individual and, except as otherwise provided in subsection
10 (b) herein, signed or otherwise authenticated by the applicant under penalty of perjury and state
11 or contain:

12 (1) the name of the applicant and the address of the applicant’s principal place of
13 business;

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

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

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

18 (i) formal training as an athlete agent;

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

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

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

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

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

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

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

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

34 (9) whether there has been any administrative or judicial determination that the applicant

1 or any person named pursuant to subsection 5-74-4(a)(7) has made a false, misleading, deceptive,
2 or fraudulent representation;

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

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

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

13 (b) An individual who has submitted an application for, and holds a certificate of
14 registration or licensure as an athlete agent in another state, may submit a copy of the applic ation
15 and certificate in lieu of submitting an application in the form prescribed pursuant to subsection
16 5-74-4(a). The secretary of state shall accept the application and the certificate from the other
17 state as an application for registration in this state if the application to the other state:

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

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

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

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

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

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

34 (2) made a materially false, misleading, deceptive, or fraudulent representation in the

1 application or as an athlete agent;

2 (3) engaged in conduct that would disqualify the applicant from serving in a fiduciary
3 capacity;

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

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

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

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

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

14 (1) how recently the conduct occurred;

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

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

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

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

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

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

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

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

33 **5-74-6. Suspension, revocation, or refusal to renew registration. -- (a) The secretary**
34 **of state may suspend, revoke, or refuse to renew a registration for conduct that would have**

1 justified denial of registration under subsection 5-74-4(b).

2 (b) The secretary of state may deny, suspend, revoke or refuse to renew a certificate of
3 registration or licensure only after proper notice and an opportunity for a hearing.

4 **5-74-7. Temporary registration. --** The secretary of state may issue a temporary
5 certificate of registration while an application for registration or renewal of registration is
6 pending.

7 **5-74-8. Registration and renewal fees. --** An application for registration or renewal of
8 registration must be accompanied by a fee in the following amount:

9 (1) fifty dollars (\$50.00) for an initial application for registration;

10 (2) fifty dollars (\$50.00) for an application for registration based upon a certificate of
11 registration or licensure issued by another state;

12 (3) twenty-five dollars (\$25.00) for an application for renewal of registration; or

13 (4) twenty-five dollars (\$25.00) for an application for renewal of registration based upon
14 an application for renewal of registration or licensure submitted in another state.

15 **5-74-9. Required form of contract. --** (a) An agency contract must be in a record,
16 signed or otherwise authenticated by the parties.

17 (b) An agency contract must state or contain:

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

22 (2) the name of any person not listed in the application for registration or renewal of
23 registration who will be compensated because the student athlete signed the agency contract;

24 (3) a description of any expenses that the student athlete agrees to reimburse;

25 (4) a description of the services provided to the student athlete;

26 (5) the duration of the contract; and

27 (6) the date of execution.

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

30 **WARNING TO STUDENT ATHLETE:**

31 If you sign this contract:

32 (1) You may lose your eligibility to compete as a student athlete in your sport;

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

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

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

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

9 **5-74-10. Notice to educational institution.** -- (a) Within seventy-two (72) hours after
10 entering into an agency contract or before the next scheduled athletic event in which the student
11 athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of
12 the existence of the contract to the athletic director of the educational institution at which the
13 student athlete is enrolled or the athlete agent has reasonable grounds to believe the student
14 athlete intends to enroll.

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

19 **5-74-11. Student athlete's right to cancel.** -- (a) A student athlete may cancel an
20 agency contract by giving notice of the cancellation to the athlete agent in a record within
21 fourteen (14) days after the contract is signed.

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

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

26 **5-74-12. Required records.** -- (a) An athlete agent shall retain the following records
27 for a period of five (5) years:

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

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

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

32 (b) Records required by subsection (a) above to be retained are open to inspection by the
33 secretary of state during normal business hours.

1 **5-74-13. Prohibited conduct.** -- (a) An athlete agent, with the intent to induce a
2 student athlete to enter into an agency contract, may not:

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

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

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

9 (b) An athlete agent may not intentionally:

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

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

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

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

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

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

20 **5-74-14. Criminal penalties.** -- An athlete agent who violates section 5-74 -13 is guilty
21 of a misdemeanor.

22 **5-74-15. Civil remedies.** -- (a) An educational institution has a right of action against
23 an athlete agent or a former student athlete for damages caused by a violation of this chapter. In
24 an action under this section, the court may award to the prevailing party costs and reasonable
25 attorney's fees.

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

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

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

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

5 **5-74-16. Administrative penalty.** – The secretary of state may assess a civil penalty
6 against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of
7 this chapter.

8 **5-74-17. Electronic signatures in global and national commerce act.** -- The
9 provisions of this chapter governing the legal effect, validity, or enforceability of electronic
10 records or signatures, and of contracts formed or performed with the use of such records or
11 signatures conform to the requirements of section 102 of the Electronic Signatures in Global and
12 National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and
13 limit the Electronic Signatures in Global and National Commerce Act.

14 **5-74-18. Severability.** -- If any provision of this chapter or its application to any person
15 or circumstance is held invalid, the invalidity does not affect other provisions or applications of
16 this chapter which can be given effect without the invalid provision or application, and to this end
17 the provisions of this chapter are severable.

18 SECTION 2. This act shall take effect upon passage.

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LC00234
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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 an act which would regulate the business of sports agency.
- 2 This act would take effect upon passage.

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LC00234
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