

CONTRACTS AND OBLIGATIONS

CHAPTER 99

HOUSE BILL NO. 1364

(Representatives Svedjan, Dorso)

(Senators St. Aubyn, G. Nelson, Robinson, DeMers)

ATHLETE AGENT CONTRACTS

AN ACT relating to contracts between athletes and athlete agents; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions.

1. "Agent contract" means any agreement under which an athlete authorizes an athlete agent to negotiate with or solicit on behalf of the athlete a professional sports team for the employment of the athlete by a professional sports team.
2. "Athlete" means an individual who is eligible to participate in intercollegiate sports contests as a student of an institution of higher education. The term includes an athlete who becomes ineligible to participate in intercollegiate sports contests because of a declaration to be open for recruitment by a professional sports team, except this type of athlete may be contacted and contracted with by an athlete agent.
3. "Athlete agent" means a person who for compensation directly or indirectly recruits or solicits an athlete to enter into an agent contract, professional sports service contract, or financial services contract with that person; or who for a fee procures, offers, promises, or attempts to obtain employment for an athlete with a professional sports team. The term does not include an attorney acting as legal counsel.
4. "Eligibility" means a period of time during which an athlete is enrolled as a student at an institution and is permitted to compete in intercollegiate athletic events.

SECTION 2. Completion of eligibility. Eligibility continues until the athlete is rendered ineligible or there is a declaration of written intent to forego any remaining eligibility. An athlete's eligibility ends at the finish of the last sports contest in the athlete's sport that is sanctioned by the athlete's final year of eligibility, as determined by the governing body of the national association for the promotion and regulation of intercollegiate athletics of which the athlete's institution of higher education is a member.

SECTION 3. Athlete agent and athlete contract requirements.

1. Each contract between an athlete and athlete agent must include the following statements printed in at least ten-point type that is boldfaced,

capitalized, underlined, or otherwise printed in a style that is distinguishable from other written material:

- a. Do not sign this contract until you have read it or if it contains blank spaces.
 - b. If you decide that you do not wish to purchase the services of the athlete agent, you may cancel this contract by notifying that athlete agent in writing of your desire to cancel the contract not later than the sixteenth day after the date on which you sign this contract.
 - c. **Warning:** A student athlete signing this contract will lose eligibility to compete in intercollegiate athletics.
 - d. If you sign this contract before your last intercollegiate contest and do not notify your college or university of this contract, your team may be required to forfeit all games in which you participate after signing this contract, you may cause your team to be ineligible for postseason games, and your team may have additional penalties imposed.
2. The contract must include a schedule of fees that the athlete agent may collect from the athlete, state all fees and percentages to be paid by the athlete to the athlete agent, and must describe all professional services to be rendered in return for each fee. The athlete agent may impose charges only in accordance with the fee schedule. The fee schedule may be changed, but a change does not become effective until the seventh day after the date on which the change was made. If a multiyear professional sport services contract is negotiated by an athlete agent for an athlete, the athlete agent may not collect in any twelve-month period, for services in negotiating the contract, a fee in excess of the amount the athlete will receive under the contract in the twelfth month.
 3. If the athlete is a student at an institution of higher education located in this state, the athlete agent shall file a copy of the contract with the athletic director of the institution. The athlete agent shall file the contract not later than the third day after the date on which the contract was signed by the athlete.
 4. As an appendix to each contract, the athlete agent shall include a current copy of published materials relating to athlete agency as provided by the governing body of the national association for the promotion and regulation of intercollegiate athletics for the institution at which the athlete was last eligible.

SECTION 4. Requirements - Prohibitions.

1. In all forms of advertising used by the athlete agent, the athlete agent shall disclose the name and address of the agent. An athlete agent may not publish or cause to be published any false or misleading information, or give any false information or make any false promises or representations concerning any employment to any person; divide fees with or receive compensation from a person exempt from this Act or a professional sports league or franchise; enter any agreement by which the athlete agent offers anything of value to any employee of an institution of higher education located in this state in return for the

referral of any client by that employee; offer anything of value to induce an athlete to enter an agreement by which the athlete agent will represent the athlete; except as otherwise provided by this Act, enter any agreement with an athlete; or have any financial interest in any entity that is directly involved in the same sport as a person with whom the athlete agent has entered a contractual relationship.

2. This Act does not prohibit an athlete agent from sending to an athlete written materials relating to the professional credentials of the agent, specific services offered by the agent relating to the representation of an athlete in the marketing of an athlete's athletic ability or reputation, or the provision of financial services by the agent to the athlete. This Act does not prohibit an athlete or the athlete's parents, legal guardians, or other advisors from contacting and interviewing an athlete agent to determine that agent's professional proficiency in representing an athlete, marketing the athlete's athletic ability or reputation, or in providing financial services by the agent on behalf of the athlete.

SECTION 5. Penalties - Remedies. An athlete agent who willfully violates this Act is guilty of a class A misdemeanor. An athlete agent who violates this Act also is subject to a cause of action for damages, forfeiture of any right of repayment for anything of value received by an athlete as an inducement to enter any contract, a refund of any consideration paid to the athlete agent on an athlete's behalf, and reasonable attorney's fees and court costs incurred by an athlete in suing and recovering against an athlete agent for a violation of this Act.

Approved March 6, 1995

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