

JAN 20 2017

A BILL FOR AN ACT

RELATING TO ATHLETE AGENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The recruitment of a student athlete while he
2 or she is still enrolled in an educational institution may cause
3 substantial eligibility or other problems for both the student
4 and the school, especially where the athlete is not aware of the
5 implications of signing the agency agreement or where agency is
6 established without notice to the athletic director of the
7 school. During the 2007 regular legislative session, as part of
8 an effort to counteract this problem, Hawaii joined
9 approximately forty other states by enacting the Uniform Athlete
10 Agents Act, which is codified as chapter 481E, Hawaii Revised
11 Statutes.

12 The Uniform Athlete Agents Act provides for the uniform
13 registration, certification, and a mandated criminal history
14 disclosure of sports agents seeking to represent student
15 athletes who are or may be eligible to participate in
16 intercollegiate sports, imposes specified contract terms on
17 these agreements to the benefit of student athletes, and



1 provides educational institutions with a right to notice along
2 with a civil cause of action for damages resulting from a breach
3 of specified duties. According to an article in the November 7,
4 2014, edition of the Wall Street Journal, some college officials
5 say that the Uniform Athlete Agents Act "has helped reduce
6 improper contact between agents and student athletes."

7 Since the enactment of chapter 481E, Hawaii Revised
8 Statutes, related problems have surfaced in another quarter,
9 namely, financial advisers. The Wall Street Journal article
10 also noted:

11 (1) Reports from college athletic officials that "brokers,
12 insurance agents, bankers and other types of financial
13 advisers often contact athletes who are promising pro
14 prospects";

15 (2) That some of the financial advisers who sought to
16 represent student athletes became the subjects of
17 industry disciplinary or criminal proceedings; and

18 (3) That "the double standard between financial advisers
19 and sports agents has long bothered some college
20 athletic officials, regulators and even players.

21 Agents were reined in [by the Uniform Athlete Agents



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1 Act] . . . while leaving players as vulnerable as ever
2 to unscrupulous financial advisers."

3 The purpose of this Act is to repeal chapter 481E, Hawaii
4 Revised Statutes, and replace it with a new revised uniform
5 athlete agents act that applies to financial advisers under
6 certain circumstances, and makes the law more effective and
7 enforceable. More specifically as compared to chapter 481E,
8 Hawaii Revised Statutes, this Act:

- 9 (1) Expands the definition of "athlete agent" to include
10 individuals who provide certain financial and business
11 services to student athletes under certain
12 circumstances;
- 13 (2) Includes a true reciprocal registration requirement
14 under which registrations by an agent in one state
15 shall be recognized in another state, subject to
16 certain conditions;
- 17 (3) Requires agency contracts to:
 - 18 (A) Contain a statement that the athlete agent is
19 registered in the state in which the contract is
20 signed and list any other state in which the
21 agent is registered; and



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- 1 (B) Be accompanied by a separate record signed by the
2 student athlete acknowledging that signing the
3 contract may result in the loss of eligibility to
4 participate in the athlete's sport as a student
5 athlete;
- 6 (4) Provides civil penalties to athlete agents who fail to
7 notify the educational institution at which a student
8 athlete is enrolled before contacting a student
9 athlete;
- 10 (5) Requires an athlete agent who has a preexisting
11 relationship with a student athlete who receives an
12 athletic scholarship from the institution to notify
13 the institution if the agent has or intends to recruit
14 or solicit the student athlete to enter into an agency
15 contract;
- 16 (6) Adds criminal penalties for athlete agents who
17 encourage another individual to take on behalf of the
18 agent an action the agent is prohibited from taking;
19 and
- 20 (7) Gives student athletes a right of action against an
21 athlete agent who violates the act.



1 obtain employment for a student athlete as a
2 professional athlete or member of a professional
3 sports team or organization;

4 (B) For compensation or in anticipation of
5 compensation related to a student athlete's
6 participation in athletics:

7 (i) Serves the athlete in an advisory capacity
8 on a matter related to finances, business
9 pursuits, or career management decisions,
10 unless the individual is an employee of an
11 educational institution acting exclusively
12 as an employee of the institution for the
13 benefit of the institution; or

14 (ii) Manages the business affairs of the athlete
15 by providing assistance with bills,
16 payments, contracts, or taxes; or

17 (C) In anticipation of representing a student athlete
18 for a purpose related to the athlete's
19 participation in athletics:

20 (i) Gives consideration to the student athlete
21 or another person;



- 1 (ii) Serves the athlete in an advisory capacity
- 2 on a matter related to finances, business
- 3 pursuits, or career management decisions; or
- 4 (iii) Manages the business affairs of the athlete
- 5 by providing assistance with bills,
- 6 payments, contracts, or taxes; but
- 7 (2) Does not include an individual who:
- 8 (A) Acts solely on behalf of a professional sports
- 9 team or organization; or
- 10 (B) Is a licensed, registered, or certified
- 11 professional and offers or provides services to a
- 12 student athlete customarily provided by members
- 13 of the profession, unless the individual:
- 14 (i) Also recruits or solicits the athlete to
- 15 enter into an agency contract;
- 16 (ii) Also, for compensation, procures employment
- 17 or offers, promises, attempts, or negotiates
- 18 to obtain employment for the athlete as a
- 19 professional athlete or member of a
- 20 professional sports team or organization; or



1 (iii) Receives consideration for providing the
2 services calculated using a different method
3 than for an individual who is not a student
4 athlete.

5 "Athletic director" means the individual responsible for
6 administering the overall athletic program of an educational
7 institution or, if an educational institution has separately
8 administered athletic programs for male students and female
9 students, the athletic program for males or the athletic program
10 for females, as appropriate.

11 "Director" means the director of commerce and consumer
12 affairs.

13 "Educational institution" includes a public or private
14 elementary school, secondary school, technical or vocational
15 school, community college, college, and university.

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



1 "Enrolled" means registered for courses and attending
2 athletic practice or class. "Enrolls" has a corresponding
3 meaning.

4 "Intercollegiate sport" means a sport played at the
5 collegiate level for which eligibility requirements for
6 participation by a student athlete are established by a national
7 association that promotes or regulates collegiate athletics.

8 "Interscholastic sport" means a sport played between
9 educational institutions that are not community colleges,
10 colleges, or universities.

11 "Licensed, registered, or certified professional" means an
12 individual licensed, registered, or certified as an attorney,
13 dealer in securities, financial planner, insurance agent, real
14 estate broker or sales agent, tax consultant, accountant, or
15 member of a profession, other than that of athlete agent, who is
16 licensed, registered, or certified by the State or a nationally
17 recognized organization that licenses, registers, or certifies
18 members of the profession on the basis of experience, education,
19 or testing.



1 "Person" means an individual, estate, business or nonprofit
2 entity, public corporation, government or governmental
3 subdivision, agency, or instrumentality, or other legal entity.

4 "Professional-sports-services contract" means an agreement
5 under which an individual is employed as a professional athlete
6 or agrees to render services as a player on a professional
7 sports team or with a professional sports organization.

8 "Record" means information that is inscribed on a tangible
9 medium or that is stored in an electronic or other medium and is
10 retrievable in perceivable form.

11 "Recruit or solicit" means attempt to influence the choice
12 of an athlete agent by a student athlete or, if the athlete is a
13 minor, a parent or guardian of the athlete. The term does not
14 include giving advice on the selection of a particular agent in
15 a family, coaching, or social situation unless the individual
16 giving the advice does so because of the receipt or anticipated
17 receipt of an economic benefit, directly or indirectly, from the
18 agent.

19 "Registration" means registration as an athlete agent under
20 this chapter.



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1 "Sign" means, with present intent to authenticate or adopt
2 a record:

3 (1) To execute or adopt a tangible symbol; or

4 (2) To attach to or logically associate with the record an
5 electronic symbol, sound, or process.

6 "State" means a state of the United States, the District of
7 Columbia, Puerto Rico, the United States Virgin Islands, or any
8 territory or insular possession subject to the jurisdiction of
9 the United States.

10 "Student athlete" means an individual who is eligible to
11 attend an educational institution and engages in, is eligible to
12 engage in, or may be eligible in the future to engage in, any
13 interscholastic or intercollegiate sport. The term does not
14 include an individual permanently ineligible to participate in a
15 particular interscholastic or intercollegiate sport for that
16 sport.

17 § -3 **Director; authority; procedure.** (a) The director
18 is authorized to implement the regulation of athlete agents as
19 provided in this chapter. The director may adopt rules pursuant
20 to chapter 91 to implement this chapter.



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

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

8 § -4 Athlete agent; registration required; void
9 contract. (a) Except as otherwise provided in subsection (b),
10 an individual may not act as an athlete agent in this State
11 without holding a certificate of registration under this
12 chapter.

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

17 (1) A student athlete or another person acting on behalf
18 of the athlete initiates communication with the
19 individual; and

20 (2) Not later than seven days after an initial act that
21 requires the individual to register as an athlete



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1 agent, the individual submits an application for
2 registration as an athlete agent in this State.

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

6 § -5 Registration as athlete agent; application;
7 requirements; reciprocal registration. (a) An applicant for
8 registration as an athlete agent shall submit an application for
9 registration to the director in a form prescribed by the
10 director. The applicant shall be an individual, and the
11 application shall be signed by the applicant under penalty of
12 perjury or unsworn falsification to authorities, as applicable.
13 The application shall contain at least the following:

14 (1) The name and date and place of birth of the applicant
15 and the following contact information for the
16 applicant:

17 (A) The address of the applicant's principal place of
18 business;

19 (B) Work and mobile telephone numbers; and

20 (C) Any means of communicating electronically,
21 including a facsimile number, electronic-mail



- 1 address, and personal and business or employer
2 websites;
- 3 (2) The name of the applicant's business or employer, if
4 applicable, including for each business or employer,
5 its mailing address, telephone number, organization
6 form, and the nature of the business;
- 7 (3) Each social media account with which the applicant or
8 the applicant's business or employer is affiliated;
- 9 (4) Each business or occupation in which the applicant
10 engaged within five years before the date of the
11 application, including self-employment and employment
12 by others, and any professional or occupational
13 license, registration, or certification held by the
14 applicant during that time;
- 15 (5) A description of the applicant's:
16 (A) Formal training as an athlete agent;
17 (B) Practical experience as an athlete agent; and
18 (C) Educational background relating to the
19 applicant's activities as an athlete agent;
- 20 (6) The name of each student athlete for whom the
21 applicant acted as an athlete agent within five years



1 before the date of the application or, if the
2 individual is a minor, the name of the parent or
3 guardian of the minor, together with the athlete's
4 sport and last-known team;

5 (7) The name and address of each person that:

6 (A) Is a partner, member, officer, manager,
7 associate, or profit sharer or directly or
8 indirectly holds an equity interest of five per
9 cent or greater of the athlete agent's business
10 if it is not a corporation; and

11 (B) Is an officer or director of a corporation
12 employing the athlete agent or a shareholder
13 having an interest of five per cent or greater in
14 the corporation;

15 (8) A description of the status of any application by the
16 applicant, or any person named under paragraph (7),
17 for a state or federal business, professional, or
18 occupational license, other than as an athlete agent,
19 from a state or federal agency, including any denial,
20 refusal to renew, suspension, withdrawal, or



1 termination of the license and any reprimand or
2 censure related to the license;

3 (9) Whether the applicant, or any person named under
4 paragraph (7), has pleaded guilty or no contest to,
5 has been convicted of, or has charges pending for, a
6 crime that would involve moral turpitude or be a
7 felony if committed in this State and, if so,
8 identification of:

9 (A) The crime;

10 (B) The law-enforcement agency involved; and

11 (C) If applicable, the date of the conviction and the
12 fine or penalty imposed;

13 (10) Whether, within fifteen years before the date of
14 application, the applicant, or any person named under
15 paragraph (7), has been a defendant or respondent in a
16 civil proceeding, including a proceeding seeking an
17 adjudication of incapacity and, if so, the date and a
18 full explanation of each proceeding;

19 (11) Whether the applicant, or any person named under
20 paragraph (7), has an unsatisfied judgment or a
21 judgment of continuing effect, including support and



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1 maintenance or a domestic order in the nature of child
2 support, which is not current at the date of the
3 application;

4 (12) Whether, within ten years before the date of
5 application, the applicant, or any person named under
6 paragraph (7), was adjudicated bankrupt or was an
7 owner of a business that was adjudicated bankrupt;

8 (13) Whether there has been any administrative or judicial
9 determination that the applicant, or any person named
10 under paragraph (7), made a false, misleading,
11 deceptive, or fraudulent representation;

12 (14) Each instance in which conduct of the applicant, or
13 any person named under paragraph (7), resulted in the
14 imposition of a sanction, suspension, or declaration
15 of ineligibility to participate in an interscholastic,
16 intercollegiate, or professional athletic event on a
17 student athlete or a sanction on an educational
18 institution;

19 (15) Each sanction, suspension, or disciplinary action
20 taken against the applicant, or any person named under



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- 1 paragraph (7), arising out of occupational or
2 professional conduct;
- 3 (16) Whether there has been a denial of an application for,
4 suspension or revocation of, refusal to renew, or
5 abandonment of, the registration of the applicant, or
6 any person named under paragraph (7), as an athlete
7 agent in any state;
- 8 (17) Each state in which the applicant currently is
9 registered as an athlete agent or has applied to be
10 registered as an athlete agent;
- 11 (18) If the applicant is certified or registered by a
12 professional league or players association:
- 13 (A) The name of the league or association;
- 14 (B) The date of certification or registration, and
15 the date of expiration of the certification or
16 registration, if any; and
- 17 (C) If applicable, the date of any denial of an
18 application for, suspension or revocation of,
19 refusal to renew, withdrawal of, or termination
20 of, the certification or registration or any



1 reprimand or censure related to the certification
2 or registration; and

3 (19) Any additional information required by the director.

4 (b) Instead of proceeding under subsection (a), an
5 individual registered as an athlete agent in another state may
6 apply for registration as an athlete agent in this State by
7 submitting to the director:

8 (1) A copy of the application for registration in the
9 other state;

10 (2) A statement that identifies any material change in the
11 information on the application or verifies there is no
12 material change in the information, signed under
13 penalty of unsworn falsification to authorities; and

14 (3) A copy of the certificate of registration from the
15 other state.

16 (c) The director shall issue a certificate of registration
17 to an individual who applies for registration under subsection
18 (b) if the director determines:

19 (1) The application and registration requirements of the
20 other state are substantially similar to or more
21 restrictive than this chapter; and



1 (2) The registration has not been revoked or suspended and
2 no action involving the individual's conduct as an
3 athlete agent is pending against the individual or the
4 individual's registration in any state.

5 (d) For purposes of implementing subsection (c), the
6 director shall:

7 (1) Cooperate with national organizations concerned with
8 athlete agent issues and agencies in other states that
9 register athlete agents to develop a common
10 registration form and determine which states have laws
11 that are substantially similar to or more restrictive
12 than this chapter; and

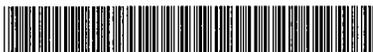
13 (2) Exchange information, including information related to
14 actions taken against registered athlete agents or
15 their registrations, with those organizations and
16 agencies.

17 § -6 **Certificate of registration; issuance or denial;**
18 **renewal.** (a) Except as otherwise provided in subsection (b),
19 the director shall issue a certificate of registration to an
20 applicant for registration who complies with section -5(a).



1 (b) The director may refuse to issue a certificate of
2 registration to an applicant for registration under section
3 -5(a) if the director determines that the applicant has
4 engaged in conduct that significantly adversely reflects on the
5 applicant's fitness to act as an athlete agent. In making the
6 determination, the director may consider whether the applicant
7 has:

- 8 (1) Pleaded guilty or no contest to, has been convicted
9 of, or has charges pending for, a crime that would
10 involve moral turpitude or be a felony if committed in
11 this State;
- 12 (2) Made a materially false, misleading, deceptive, or
13 fraudulent representation in the application or as an
14 athlete agent;
- 15 (3) Engaged in conduct that would disqualify the applicant
16 from serving in a fiduciary capacity;
- 17 (4) Engaged in conduct prohibited by section -14;
- 18 (5) Had a registration as an athlete agent suspended,
19 revoked, or denied in any state;
- 20 (6) Been refused renewal of registration as an athlete
21 agent in any state;



1 (7) Engaged in conduct resulting in imposition of a
2 sanction, suspension, or declaration of ineligibility
3 to participate in an interscholastic, intercollegiate,
4 or professional athletic event on a student athlete or
5 a sanction on an educational institution; or

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

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

10 (1) How recently the conduct occurred;

11 (2) The nature of the conduct and the context in which it
12 occurred; and

13 (3) Other relevant conduct of the applicant.

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



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

8 (1) The registration requirements of the other state are
9 substantially similar to or more restrictive than this
10 chapter; and

11 (2) The renewed registration has not been suspended or
12 revoked and no action involving the individual's
13 conduct as an athlete agent is pending against the
14 individual or the individual's registration in any
15 state.

16 (f) A certificate of registration or renewal of
17 registration under this chapter shall be valid for two years.

18 § -7 Suspension, revocation, or refusal to renew
19 registration. (a) The director may limit, suspend, revoke, or
20 refuse to renew a registration of an individual registered under



1 section -6(a) for conduct that would have justified refusal
2 to issue a certificate of registration under section -6(b).

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

9 § -8 **Temporary registration.** The director may issue a
10 temporary certificate of registration as an athlete agent while
11 an application for registration or renewal of registration is
12 pending.

13 § -9 **Registration and renewal fees.** No applicant or
14 registrant shall be issued a certificate of registration unless
15 the appropriate fees have been paid. Unless otherwise provided
16 by law, the director shall establish the amount of all fees and
17 expenses by rules adopted pursuant to chapter 91, and the fees
18 shall be deposited with the director to the credit of the
19 compliance resolution fund established pursuant to section
20 26-9(o).



1 § -10 Required form of agency contract. (a) An agency
2 contract shall be in a record signed by the parties.

3 (b) An agency contract shall contain:

4 (1) A statement that the athlete agent is registered as an
5 athlete agent in this State and a list of any other
6 states in which the agent is registered as an athlete
7 agent;

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

14 (3) The name of any person not listed in the agent's
15 application for registration or renewal of
16 registration that will be compensated because the
17 athlete signed the contract;

18 (4) A description of any expenses the athlete agrees to
19 reimburse;

20 (5) A description of the services to be provided to the
21 athlete;



1 (6) The duration of the contract; and

2 (7) The date of execution.

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

6 "WARNING TO STUDENT ATHLETE

7 IF YOU SIGN THIS CONTRACT:

8 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
9 ATHLETE IN YOUR SPORT;

10 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN SEVENTY-TWO
11 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT
12 SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE,
13 WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE
14 AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE
15 ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND
16 CONTACT INFORMATION OF THE ATHLETE AGENT; AND

17 (3) YOU SHALL CANCEL THIS CONTRACT WITHIN FOURTEEN DAYS
18 AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY
19 NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN
20 YOUR SPORT."



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

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

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

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

20 § -11 Notice to educational institution. (a) In this
21 section, "communicating or attempting to communicate" means



1 contacting or attempting to contact by an in-person meeting, a
2 record, or any other method that conveys or attempts to convey a
3 message.

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

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

19 (d) If an athlete agent enters into an agency contract
20 with a student athlete and the athlete subsequently enrolls at
21 an educational institution, the agent shall notify the athletic



1 director of the institution of the existence of the contract not
2 later than seventy-two hours after the agent knew or should have
3 known the athlete enrolled.

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

10 (1) The relationship was motivated in whole or part by the
11 intention of the agent to recruit or solicit the
12 athlete to enter an agency contract in the future; or

13 (2) The agent directly or indirectly recruited or
14 solicited the athlete to enter an agency contract
15 before the enrollment.

16 (f) An athlete agent shall give notice in a record to the
17 athletic director of any educational institution at which a
18 student athlete is enrolled before the agent communicates or
19 attempts to communicate with:

20 (1) The athlete or, if the athlete is a minor, a parent or
21 guardian of the athlete, to influence the athlete or



1 parent or guardian to enter into an agency contract;
2 or

3 (2) Another individual to have that individual influence
4 the athlete or, if the athlete is a minor, the parent
5 or guardian of the athlete to enter into an agency
6 contract.

7 (g) If a communication or attempt to communicate with an
8 athlete agent is initiated by a student athlete or another
9 individual on behalf of the athlete, the agent shall notify in a
10 record the athletic director of any educational institution at
11 which the athlete is enrolled. The notification shall be made
12 not later than ten days after the communication or attempt.

13 (h) An educational institution that becomes aware of a
14 violation of this chapter by an athlete agent shall notify the
15 director and any professional league or players association with
16 which the institution is aware the agent is licensed or
17 registered of the violation.

18 § -12 Student athlete's right to cancel. (a) A student
19 athlete or, if the athlete is a minor, the parent or guardian of
20 the athlete may cancel an agency contract by giving notice in a



1 record of cancellation to the athlete agent not later than
2 fourteen days after the contract is signed.

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

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

11 § -13 **Required records.** (a) An athlete agent shall
12 create and retain, for five years, records of the following:

13 (1) The name and address of each individual represented by
14 the agent;

15 (2) Each agency contract entered into by the agent; and

16 (3) The direct costs incurred by the agent in the
17 recruitment or solicitation of each student athlete to
18 enter into an agency contract.

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



1 § -14 Prohibited conduct. (a) An athlete agent, with
2 the intent to influence a student athlete or, if the athlete is
3 a minor, a parent or guardian of the athlete to enter into an
4 agency contract, shall not take any of the following actions or
5 encourage any other individual to take or assist any other
6 individual in taking any of the following actions on behalf of
7 the agent:

8 (1) Give materially false or misleading information or
9 make a materially false promise or representation;

10 (2) Furnish anything of value to the athlete before the
11 athlete enters into the contract; or

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

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

17 (1) Initiate contact, directly or indirectly, with a
18 student athlete or, if the athlete is a minor, a
19 parent or guardian of the athlete, to recruit or
20 solicit the athlete, parent, or guardian to enter an
21 agency contract unless registered under this chapter;



- 1 (2) Fail to create, retain, or permit inspection of the
- 2 records required by section -13;
- 3 (3) Fail to register when required by section -4;
- 4 (4) Provide materially false or misleading information in
- 5 an application for registration or renewal of
- 6 registration;
- 7 (5) Predate or postdate an agency contract; or
- 8 (6) Fail to notify a student athlete or, if the athlete is
- 9 a minor, a parent or guardian of the athlete, before
- 10 the athlete, parent, or guardian signs an agency
- 11 contract for a particular sport that the signing may
- 12 make the athlete ineligible to participate as a
- 13 student athlete in that sport.

14 § -15 **Criminal penalty.** An athlete agent who violates
15 section -14 shall be guilty of a misdemeanor. In addition to
16 any fine or imprisonment authorized by law for the violation of
17 this chapter, the director may suspend or revoke the athlete
18 agent's registration after appropriate notice and hearing.

19 § -16 **Civil remedy.** (a) An educational institution or
20 student athlete may bring an action for damages against an
21 athlete agent if the institution or athlete is adversely



1 affected by an act or omission of the agent in violation of this
2 chapter. An educational institution or student athlete is
3 adversely affected by an act or omission of the agent only if,
4 because of the act or omission, the institution or an individual
5 who was a student athlete at the time of the act or omission and
6 enrolled in the institution:

7 (1) Is suspended or disqualified from participation in an
8 interscholastic or intercollegiate sports event by or
9 under the rules of a state or national federation or
10 association that promotes or regulates interscholastic
11 or intercollegiate sports; or

12 (2) Suffers financial damage.

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

20 (c) A violation of this chapter shall be an unfair trade
21 or deceptive practice for purposes of section 480-2.



1 § -17 Civil penalty. The director may assess a civil
2 penalty against an athlete agent not to exceed \$50,000 for a
3 violation of this chapter. Fines shall be deposited with the
4 director to the credit of the compliance resolution fund
5 pursuant to section 26-9(o). Unless otherwise expressly
6 provided, the remedies or penalties provided by this chapter are
7 cumulative to each other and to the remedies or penalties
8 available under all other laws of this State.

9 § -18 Relation to electronic signatures in global and
10 national commerce act. This chapter modifies, limits, or
11 supersedes the Electronic Signatures in Global and National
12 Commerce Act, 15 U.S.C. section 7001 et seq., but does not
13 modify, limit, or supersede section 101(c) of that act, 15
14 U.S.C. section 7001(c), or authorize electronic delivery of any
15 of the notices described in section 103 (b) of that act, 15
16 U.S.C. section 7003(b)."

17 SECTION 3. Chapter 481E, Hawaii Revised Statutes, is
18 repealed.

19 SECTION 4. This Act shall take effect on July 1, 2017.

20

Paul R. Hood

INTRODUCED BY: ~~SEN. D.C. EICH-AGENE~~
Sen. Overcash *Sen. [Signature]*



S.B. NO. 430

Report Title:

Athlete Agents; Revised Uniform Athlete Agents Act; Student Athlete; Regulation

Description:

Expands the definition of "athlete agent" (who shall register with the director of commerce and consumer affairs) to include individuals who, for compensation or the anticipation of compensation, serve a student athlete as a financial advisor or business manager. Requires reciprocity for athlete agents who are registered in more than one state. Strengthens requirements for athlete agent contracts. Strengthens requirements under which athlete agents shall notify educational institution at which student athlete is enrolled.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

