Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

CHAPTER 376
FORMERLY
SENATE BILL NO. 184

AN ACT TO AMEND TITLE 24 AND TITLE 29 OF THE DELAWARE CODE RELATING TO ATHLETE AGENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §5402, Title 24 of the Delaware Code as follows:

§ 5402. Definitions.

For purposes of this chapter:

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

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

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

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

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

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

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

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

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

(10) "Registration" means registration as an athlete agent pursuant to this chapter.

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

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

(13) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the provision of services by an athlete agent.

Section 2. Amend Chapter 54, Title 24 of the Delaware Code by repealing §5403, §5404, §5405, §5406, §5407, §5408, §5409 and §5417 in their entirety.

Section 3. Amend §10161(50), Title 29 of the Delaware Code by striking said subsection in its entirety and renumbering the remaining subsections accordingly.

Section 4. Amend §5410, Title 24 of the Delaware Code as follows:

§ 5410. Required form of contract.

(a) An agency contract must be in a record signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain:

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

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

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

(4) The duration of the contract; and

(5) The date of execution.

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

IF YOU SIGN THIS CONTRACT:

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

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

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

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

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

Section 5. Amend §5413, Title 24 of the Delaware Code as follows:

§ 5413. Required records.

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

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

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

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

Section 6. Amend §5414, Title 24 of the Delaware Code as follows:

§ 5414. Prohibited conduct.

(a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

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

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

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

(b) An athlete agent may not intentionally:

(1) Refuse or fail to retain the records required to be retained by § 5413 of this title;

(2) Predate or postdate an agency contract; or

(3) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

Section 7. Amend §8735, Title 29 of the Delaware Code by striking subsection (a)(32) in its entirety and renumbering the remaining subsections accordingly.

Approved July 27, 2012