

One Hundred Eighth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the twentieth day of January, two thousand and four*

An Act

To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sports Agent Responsibility and Trust Act”.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) AGENCY CONTRACT.—The term “agency contract” means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

(2) ATHLETE AGENT.—The term “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, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) ATHLETIC DIRECTOR.—The term “athletic director” means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

(4) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(5) ENDORSEMENT CONTRACT.—The term “endorsement contract” means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual’s person, name, image, or likeness in the promotion of any product, service, or event.

(6) INTERCOLLEGIATE SPORT.—The term “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 college athletics.

(7) PROFESSIONAL SPORTS CONTRACT.—The term “professional sports 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.

(8) STATE.—The term “State” includes 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.

(9) STUDENT ATHLETE.—The term “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. An individual who is permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.

SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE CONTACT BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE.

(a) CONDUCT PROHIBITED.—It is unlawful for an athlete agent to—

(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—

(A) giving any false or misleading information or making a false promise or representation; or

(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract, including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt;

(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or

(3) predate or postdate an agency contract.

(b) REQUIRED DISCLOSURE BY ATHLETE AGENTS TO STUDENT ATHLETES.—

(1) IN GENERAL.—In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18, to such student athlete’s parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.

(2) SIGNATURE OF STUDENT ATHLETE.—The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18, by such student athlete’s parent or legal guardian, prior to entering into the agency contract.

(3) REQUIRED LANGUAGE.—The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete’s parent or legal guardian, a conspicuous notice in boldface type stating: “Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic

event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract.”.

SEC. 4. ENFORCEMENT.

(a) **UNFAIR OR DECEPTIVE ACT OR PRACTICE.**—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) **ACTIONS BY THE COMMISSION.**—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

SEC. 5. ACTIONS BY STATES.

(a) **IN GENERAL.**—

(1) **CIVIL ACTIONS.**—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any athlete agent in a practice that violates section 3 of this Act, the State may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) obtain damage, restitution, or other compensation on behalf of residents of the State.

(2) **NOTICE.**—

(A) **IN GENERAL.**—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) **EXEMPTION.**—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) **INTERVENTION.**—

(1) **IN GENERAL.**—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) **EFFECT OF INTERVENTION.**—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

- (1) conduct investigations;
- (2) administer oaths or affirmations; or
- (3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for a violation of section 3, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action.

(e) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(f) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

- (1) is an inhabitant; or
- (2) may be found.

SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.

(a) NOTICE REQUIRED.—Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the athlete agent and the student athlete shall each inform the athletic director of the educational institution at which the student athlete is enrolled, or other individual responsible for athletic programs at such educational institution, that the student athlete has entered into an agency contract, and the athlete agent shall provide the athletic director with notice in writing of such a contract.

(b) CIVIL REMEDY.—

(1) IN GENERAL.—An educational institution has a right of action against an athlete agent for damages caused by a violation of this Act.

(2) DAMAGES.—Damages of an educational institution may include and are limited to actual losses and expenses incurred because, as a result of the conduct of the athlete agent, the educational institution was injured by a violation of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate actions likely to be imposed by such an association or conference.

(3) COSTS AND ATTORNEYS FEES.—In an action taken under this section, the court may award to the prevailing party costs and reasonable attorneys fees.

(4) EFFECT ON OTHER RIGHTS, REMEDIES AND DEFENSES.—This section does not restrict the rights, remedies, or defenses of any person under law or equity.

SEC. 7. LIMITATION.

Nothing in this Act shall be construed to prohibit an individual from seeking any remedies available under existing Federal or State law or equity.

H. R. 361—5

SEC. 8. SENSE OF CONGRESS.

It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws, to protect student athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student athlete to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*