

**EHB 1465**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**THE STATE SENATE**  
**Thursday, March 20, 2003**

**ENGROSSED**  
**House Bill No. 1465**  
**As Amended**

ENGROSSED HOUSE BILL NO. 1465 - By: ASKINS of the House and MORGAN of the Senate.

[ schools - Uniform Athlete Agents Act - certificate of registration - cancel agency contract - administrative penalty - repealing eleven sections in Title 70 - codification - effective date ]

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 821.81 of Title 70, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 19 of this act shall be known and may be cited as the "Uniform Athlete Agents Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 821.82 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the Uniform Athlete Agents Act:

- 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;

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

9        3. "Athletic director" means an individual responsible for  
10 administering the overall athletic program of an educational  
11 institution or, if an educational institution has separately  
12 administered athletic programs for male students and female  
13 students, the athletic program for males or the athletic program for  
14 females, as appropriate;

15        4. "Contact" means a communication, direct or indirect, between  
16 an athlete and a student-athlete, to recruit or solicit the student-  
17 athlete to enter into an agency contract;

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

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

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

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

14       9. "Record" means information that is inscribed on a tangible  
15 medium or that is stored in an electronic or other medium and is  
16 retrievable in perceivable form;

17       10. "Registration" means registration as an athlete agent  
18 pursuant to the Uniform Athlete Agents Act;

19       11. "State" means a state of the United States, the District of  
20 Columbia, Puerto Rico, the United States Virgin Islands, or any  
21 territory or insular possession subject to the jurisdiction of the  
22 United States; and

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

6        SECTION 3.        NEW LAW        A new section of law to be codified  
7 in the Oklahoma Statutes as Section 821.83 of Title 70, unless there  
8 is created a duplication in numbering, reads as follows:

9        A. By acting as an athlete agent in this state, a nonresident  
10 individual appoints the Secretary of State as the individual's agent  
11 for service of process in any civil action in this state related to  
12 the individual's acting as an athlete agent in this state.

13        B. The Secretary of State may issue subpoenas for any material  
14 that is relevant to the administration of the Uniform Athlete Agents  
15 Act.

16        SECTION 4.        NEW LAW        A new section of law to be codified  
17 in the Oklahoma Statutes as Section 821.84 of Title 70, unless there  
18 is created a duplication in numbering, reads as follows:

19        A. Except as provided in subsection B of this section, an  
20 individual shall not act as an athlete agent in this state without  
21 holding a certificate of registration pursuant to Section 6 or 8 of  
22 this act.

1           B. Before being issued a certificate of registration, an  
2 individual may act as an athlete agent in this state for all  
3 purposes except signing an agency contract, if:

4           1. A student-athlete or another person acting on behalf of the  
5 student-athlete initiates communication with the individual; and

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

9           C. An agency contract resulting from conduct in violation of  
10 this section is void and the athlete agent shall return any  
11 consideration received under the contract.

12           SECTION 5.           NEW LAW           A new section of law to be codified  
13 in the Oklahoma Statutes as Section 821.85 of Title 70, unless there  
14 is created a duplication in numbering, reads as follows:

15           A. An applicant for registration shall submit an application  
16 for registration to the Secretary of State in a form prescribed by  
17 the Secretary of State. An application filed under this section is  
18 a public record. The application shall be in the name of an  
19 individual and, except as provided in subsection B of this section,  
20 signed or otherwise authenticated by the applicant under penalty of  
21 perjury and state or contain:

22           1. The name of the applicant and the address of the applicant's  
23 principal place of business;

- 1           2. The name of the applicant's business or employer, if  
2 applicable;
- 3           3. Any business or occupation engaged in by the applicant for  
4 the five (5) years next preceding the date of submission of the  
5 application;
- 6           4. A description of the applicant's:  
7           a. formal training as an athlete agent,  
8           b. practical experience as an athlete agent, and  
9           c. educational background relating to the applicant's  
10           activities as an athlete agent;
- 11          5. The names and addresses of three (3) individuals not related  
12 to the applicant who are willing to serve as references;
- 13          6. The name, sport, and last-known team for each individual for  
14 whom the applicant acted as an athlete agent during the five (5)  
15 years next preceding the date of submission of the application;
- 16          7. The names and addresses of all persons who are:  
17           a. with respect to the athlete agent's business if it is  
18           not a corporation, the partners, members, officers,  
19           managers, associates, or profit-sharers of the  
20           business, and  
21           b. with respect to a corporation employing the athlete  
22           agent, the officers, directors, and any shareholder of

1                   the corporation having an interest of five percent  
2                   (5%) or greater;

3           8. Whether the applicant or any person named pursuant to  
4 paragraph 7 of this subsection has been convicted of a crime that,  
5 if committed in this state, would be a crime involving moral  
6 turpitude or a felony, and identify the crime;

7           9. Whether there has been any administrative or judicial  
8 determination that the applicant or any person named pursuant to  
9 paragraph 7 of this subsection made a false, misleading, deceptive,  
10 or fraudulent representation;

11          10. Any instance in which the conduct of the applicant or any  
12 person named pursuant to paragraph 7 of this subsection resulted in  
13 the imposition of a sanction, suspension, or declaration of  
14 ineligibility to participate in an interscholastic or  
15 intercollegiate athletic event on a student-athlete or educational  
16 institution;

17          11. Any sanction, suspension, or disciplinary action taken  
18 against the applicant or any person named pursuant to paragraph 7 of  
19 this subsection arising out of occupational or professional conduct;  
20 and

21          12. Whether there has been any denial of an application for,  
22 suspension or revocation of, or refusal to renew, the registration

1 or licensure of the applicant or any person named pursuant to  
2 paragraph 7 of this subsection as an athlete agent in any state.

3 B. An individual who has submitted an application for, and  
4 holds a certificate of, registration or licensure as an athlete  
5 agent in another state, may submit a copy of the application and  
6 certificate in lieu of submitting an application in the form  
7 prescribed pursuant to subsection A of this section. The Secretary  
8 of State shall accept the application and the certificate from the  
9 other state as an application for registration in this state if the  
10 application to the other state:

11 1. Was submitted in the other state within six (6) months next  
12 preceding the submission of the application in this state and the  
13 applicant certifies that the information contained in the  
14 application is current;

15 2. Contains information substantially similar to or more  
16 comprehensive than that required in an application submitted in this  
17 state; and

18 3. Was signed by the applicant under penalty of perjury.

19 SECTION 6. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 821.86 of Title 70, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. Except as provided in subsection B of this section, the  
23 Secretary of State shall issue a certificate of registration to an

1 individual who complies with subsection A of Section 5 of this act  
2 or whose application has been accepted under subsection B of Section  
3 5 of this act.

4 B. The Secretary of State may refuse to issue a certificate of  
5 registration if the Secretary of State determines that the applicant  
6 has engaged in conduct that has a significant adverse effect on the  
7 applicant's fitness to act as an athlete agent. In making the  
8 determination, the Secretary of State may consider whether the  
9 applicant has:

10 1. Been convicted of a crime that, if committed in this state,  
11 would be a crime involving moral turpitude or a felony;

12 2. Made a materially false, misleading, deceptive, or  
13 fraudulent representation in the application or as an athlete agent;

14 3. Engaged in conduct that would disqualify the applicant from  
15 serving in a fiduciary capacity;

16 4. Engaged in conduct prohibited by Section 14 of this act;

17 5. Had a registration or licensure as an athlete agent  
18 suspended, revoked, or denied or been refused renewal of  
19 registration or licensure as an athlete agent in any state;

20 6. Engaged in conduct the consequence of which was that a  
21 sanction, suspension, or declaration of ineligibility to participate  
22 in an interscholastic or intercollegiate athletic event was imposed  
23 on a student-athlete or educational institution; or

1           7. Engaged in conduct that significantly adversely reflects on  
2 the applicant's credibility, honesty, or integrity.

3           C. In making a determination under subsection B of this  
4 section, the Secretary of State shall consider:

5           1. How recently the conduct occurred;

6           2. The nature of the conduct and the context in which it  
7 occurred; and

8           3. Any other relevant conduct of the applicant.

9           D. An athlete agent may apply to renew a registration by  
10 submitting an application for renewal in a form prescribed by the  
11 Secretary of State. An application filed under this section is a  
12 public record. The application for renewal must be signed by the  
13 applicant under penalty of perjury and must contain current  
14 information on all matters required in an original registration.

15           E. An individual who has submitted an application for renewal  
16 of registration or licensure in another state, in lieu of submitting  
17 an application for renewal in the form prescribed pursuant to  
18 subsection D of this section, may file a copy of the application for  
19 renewal and a valid certificate of registration or licensure from  
20 the other state. The Secretary of State shall accept the  
21 application for renewal from the other state as an application for  
22 renewal in this state if the application to the other state:

1           1. Was submitted in the other state within six (6) months next  
2 preceding the filing in this state and the applicant certifies the  
3 information contained in the application for renewal is current;

4           2. Contains information substantially similar to or more  
5 comprehensive than that required in an application for renewal  
6 submitted in this state; and

7           3. Was signed by the applicant under penalty of perjury.

8           F. A certificate of registration or a renewal of a registration  
9 is valid for two (2) years.

10          SECTION 7.           NEW LAW           A new section of law to be codified  
11 in the Oklahoma Statutes as Section 821.87 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13           A. The Secretary of State may suspend, revoke, or refuse to  
14 renew a registration for conduct that would have justified denial of  
15 registration under subsection B of Section 6 of this act.

16           B. The Secretary of State may deny, suspend, revoke, or refuse  
17 to renew a certificate of registration or licensure only after  
18 proper notice and an opportunity for a hearing. The Administrative  
19 Procedures Act shall apply to the Uniform Athlete Agents Act.

20          SECTION 8.           NEW LAW           A new section of law to be codified  
21 in the Oklahoma Statutes as Section 821.88 of Title 70, unless there  
22 is created a duplication in numbering, reads as follows:

1           The Secretary of State may issue a temporary certificate of  
2 registration while an application for registration or renewal of  
3 registration is pending.

4           SECTION 9.           NEW LAW           A new section of law to be codified  
5 in the Oklahoma Statutes as Section 821.89 of Title 70, unless there  
6 is created a duplication in numbering, reads as follows:

7           A. An application for registration or renewal of registration  
8 must be accompanied by a fee in the following amount:

9           1. One Thousand Dollars (\$1,000.00) for an initial application  
10 for registration;

11           2. One Thousand Dollars (\$1,000.00) for an application for  
12 registration based upon a certificate of registration or licensure  
13 issued by another state;

14           3. One Thousand Dollars (\$1,000.00) for an application for  
15 renewal of registration; or

16           4. One Thousand Dollars (\$1,000.00) for an application for  
17 renewal of registration based upon an application for renewal of  
18 registration or licensure submitted in another state.

19           B. For the initial registration, the Secretary of State shall  
20 credit against the fee required by subsection A of this section the  
21 prorated value of any filing fee paid by an athlete agent for  
22 registration as an athlete agent prior to January 1, 2004, for the

1 time from January 1, 2004, until the date the prior registration  
2 would have expired.

3 C. The Secretary of State shall return any surety bond deposit  
4 filed with the Secretary of State by an athlete agent prior to  
5 January 1, 2004.

6 SECTION 10. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 821.90 of Title 70, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. An agency contract shall be in a record, signed or otherwise  
10 authenticated by the parties.

11 B. An agency contract shall state or contain:

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

17 2. The name of any person not listed in the application for  
18 registration or renewal of registration who will be compensated  
19 because the student-athlete signed the agency contract;

20 3. A description of any expenses that the student-athlete  
21 agrees to reimburse;

22 4. A description of the services to be provided to the student-  
23 athlete;

1           5. The duration of the contract; and

2           6. The date of execution.

3           C. An agency contract shall contain, in close proximity to the  
4 signature of the student-athlete, a conspicuous notice in boldface  
5 type in capital letters stating:

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 (72)  
11 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE  
12 AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

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

16          D. An agency contract that does not conform to this section is  
17 voidable by the student-athlete. If a student-athlete voids an  
18 agency contract, the student-athlete is not required to pay any  
19 consideration under the contract or to return any consideration  
20 received from the athlete agent to induce the student-athlete to  
21 enter into the contract.

1 E. The athlete agent shall give a record of the signed or  
2 otherwise authenticated agency contract to the student-athlete at  
3 the time of execution.

4 SECTION 11. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 821.91 of Title 70, unless there  
6 is created a duplication in numbering, reads as follows:

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

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

20 SECTION 12. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 821.92 of Title 70, unless there  
22 is created a duplication in numbering, reads as follows:

1       A. A student-athlete may cancel an agency contract by giving  
2 notice of the cancellation to the athlete agent in a record within  
3 fourteen (14) days after the contract is signed.

4       B. A student-athlete may not waive the right to cancel an  
5 agency contract.

6       C. If a student-athlete cancels an agency contract, the  
7 student-athlete is not required to pay any consideration under the  
8 contract or to return any consideration received from the athlete  
9 agent to induce the student-athlete to enter into the contract.

10       SECTION 13.       NEW LAW       A new section of law to be codified  
11 in the Oklahoma Statutes as Section 821.93 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13       A. An athlete agent shall retain the following records for a  
14 period of five (5) years:

15       1. The name and address of each individual represented by the  
16 athlete agent;

17       2. Any agency contract entered into by the athlete agent; and

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

21       B. Records required by subsection A of this section to be  
22 retained shall be open to inspection by the Secretary of State  
23 during normal business hours.

1 SECTION 14. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 821.94 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. An athlete agent, with the intent to induce a student-  
5 athlete to enter into an agency contract, shall not:

6 1. Give any materially false or misleading information or make  
7 a materially false promise or representation;

8 2. Furnish anything of value to a student-athlete before the  
9 student-athlete enters into the agency contract; or

10 3. Furnish anything of value to any individual other than the  
11 student-athlete or another registered athlete agent.

12 B. An athlete agent shall not intentionally:

13 1. Initiate contact with a student-athlete unless the athlete  
14 agent registered pursuant to the Uniform Athlete Agents Act;

15 2. Refuse or fail to retain or permit inspection of the records  
16 required to be retained by Section 13 of this act;

17 3. Fail to register when required by Section 4 of this act;

18 4. Provide materially false or misleading information in an  
19 application for registration or renewal of registration;

20 5. Predate or postdate an agency contract; or

21 6. Fail to notify a student-athlete before the student-athlete  
22 signs or otherwise authenticates an agency contract for a particular  
23 sport that the signing or authentication may make the student-

1 athlete ineligible to participate as a student-athlete in that  
2 sport.

3 SECTION 15. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 821.95 of Title 70, unless there  
5 is created a duplication in numbering, reads as follows:

6 An athlete agent who violates Section 14 of this act is guilty  
7 of a misdemeanor and, upon conviction, shall be subject to a fine of  
8 not more than Five Hundred Dollars (\$500.00) or by imprisonment not  
9 to exceed one (1) year, or both such fine and imprisonment.

10 SECTION 16. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 821.96 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. An educational institution has a right of action against an  
14 athlete agent or a former student-athlete for damages caused by a  
15 violation of the Uniform Athlete Agents Act.

16 B. Damages of an educational institution under subsection A of  
17 this section include losses and expenses incurred because, as a  
18 result of the conduct of an athlete agent or former student-athlete,  
19 the educational institution was injured by a violation of the  
20 Uniform Athlete Agents Act or was penalized, disqualified, or  
21 suspended from participation in athletics by a national association  
22 for the promotion and regulation of athletics, by an athletic

1 conference, or by reasonable self-imposed disciplinary action taken  
2 to mitigate sanctions likely to be imposed by such an organization.

3 C. A right of action under this section does not accrue until  
4 the educational institution discovers or by the exercise of  
5 reasonable diligence would have discovered the violation by the  
6 athlete agent or former student-athlete.

7 D. Any liability of the athlete agent or the former student-  
8 athlete under this section is several and not joint.

9 E. The Uniform Athlete Agents Act does not restrict rights,  
10 remedies, or defenses of any person under law or equity.

11 SECTION 17. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 821.97 of Title 70, unless there  
13 is created a duplication in numbering, reads as follows:

14 The Secretary of State may assess a civil penalty against an  
15 athlete agent not to exceed Twenty-five Thousand Dollars  
16 (\$25,000.00) for a violation of the Uniform Athlete Agents Act.

17 SECTION 18. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 821.98 of Title 70, unless there  
19 is created a duplication in numbering, reads as follows:

20 In applying and construing the Uniform Athlete Agents Act,  
21 consideration shall be given to the need to promote uniformity of  
22 the law with respect to its subject matter among states that enact  
23 it.

1           SECTION 19.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 821.99 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4           The provisions of the Uniform Athlete Agents Act governing the  
5 legal effect, validity, or enforceability of electronic records or  
6 signatures, and of contracts formed or performed with the use of  
7 such records or signatures conform to the requirements of Section  
8 102 of the Electronic Signatures in Global and National Commerce  
9 Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede,  
10 modify, and limit the Electronic Signatures in Global and National  
11 Commerce Act.

12           SECTION 20.           REPEALER           70 O.S. 2001, Sections 821.61,  
13 821.62, 821.63, 821.64, 821.65, 821.66, 821.67, 821.68, 821.69,  
14 821.70 and 821.71, are hereby repealed.

15           SECTION 21.   This act shall become effective January 1, 2004.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-18-03 - DO  
17 PASS, As Amended.