

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE
5 BILL NO. 48

 By: Daniels of the Senate

 and

 Kannady of the House

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10 An Act relating to athlete agents; creating the
11 Revised Uniform Athlete Agents Act; defining terms;
12 providing for application of the Administrative
13 Procedures Act; providing for promulgation of rules;
14 making Secretary of State agent for service of
15 process for nonresident athlete agents; requiring
16 registration; providing acts that may occur before
17 registration; providing that certain contracts are
18 void; providing for return of consideration;
19 providing registration procedure; requiring
20 application for registration to contain certain
21 information; providing for issuance of certificate of
22 registration; requiring the Secretary of State to
23 cooperate and exchange information with certain
24 organizations; authorizing the Secretary of State to
 refuse to issue a certificate of registration for
 specified reasons; providing for renewal of
 registration; providing for suspension, revocation
 and refusal to renew registrations; authorizing
 issuance of temporary certificate of registration;
 providing registration and renewal fees; providing
 for certificates issued under prior law; providing
 for deposit of fees in the Revolving Fund for the
 Office of Secretary of State; providing requirements
 for contracts; specifying information to be contained
 in contract; requiring inclusion of warning;
 requiring certain notice be given to educational
 institution and athletic director; requiring
 educational institution to notify the Secretary of

1 State of known violations; providing right to cancel
2 contract; providing that right cannot be waived;
3 providing that consideration need not be returned;
4 requiring athlete agent to keep certain records for
5 specified period of time; prohibiting certain
6 conduct; providing criminal penalties; providing that
7 certain portion of fines be deposited in the Attorney
8 General's Law Enforcement Revolving Fund; authorizing
9 the Secretary of State to assess civil penalties;
10 specifying maximum amount of civil penalties;
11 providing for uniformity of application and
12 construction; providing relation to Electronic
13 Signatures in Global and National Commerce Act;
14 amending 78 O.S. 2011, Sections 53 and 54, which
15 relate to the Oklahoma Deceptive Trade Practices Act;
16 expanding acts that constitute deceptive trade
17 practices to include violations of the Revised
18 Uniform Athlete Agents Act; expanding authority of
19 the Attorney General and district attorneys;
20 repealing 70 O.S. 2011, Sections 821.81, 821.82,
21 821.83, 821.84, 821.85, as amended by Section 1,
22 Chapter 173, O.S.L. 2012, 821.86, 821.87, 821.88,
23 821.89, 821.90, 821.91, 821.92, 821.93, 821.94,
24 821.95, 821.96, 821.97, 821.98 and 821.99 (70 O.S.
25 Supp. 2020, Section 821.85), which relate to the
26 Uniform Athlete Agents Act; providing for
27 codification; and providing an effective date.

28 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

29 SECTION 1. NEW LAW A new section of law to be codified
30 in the Oklahoma Statutes as Section 823.1 of Title 70, unless there
31 is created a duplication in numbering, reads as follows:

32 SHORT TITLE. This act shall be known and may be cited as the
33 "Revised Uniform Athlete Agents Act".
34

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 823.2 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 DEFINITIONS. As used in the Revised Uniform Athlete Agents Act:

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

9 2. "Athlete agent":

10 a. means an individual, whether or not registered under
11 the Revised Uniform Athlete Agents Act, who:

12 (1) directly or indirectly recruits or solicits a
13 student athlete to enter into an agency contract
14 or, for compensation, procures employment or
15 offers, promises, attempts or negotiates to
16 obtain employment for a student athlete as a
17 professional athlete or member of a professional
18 sports team or organization,

19 (2) for compensation or in anticipation of
20 compensation related to a student athlete's
21 participation in athletics:

22 (a) serves the athlete in an advisory capacity
23 on a matter related to finances, business
24 pursuits or career management decisions,

1 unless the individual is an employee of an
2 educational institution acting exclusively
3 as an employee of the institution for the
4 benefit of the institution, or

5 (b) manages the business affairs of the athlete
6 by providing assistance with bills,
7 payments, contracts, or taxes, or

8 (3) in anticipation of representing a student athlete
9 for a purpose related to the athlete's
10 participation in athletics:

11 (a) gives consideration to the student athlete
12 or another person,

13 (b) serves the athlete in an advisory capacity
14 on a matter related to finances, business
15 pursuits or career management decisions, or

16 (c) manages the business affairs of the athlete
17 by providing assistance with bills,
18 payments, contracts or taxes, but

19 b. does not include an individual who:

20 (1) acts solely on behalf of a professional sports
21 team or organization, or

22 (2) is a licensed, registered or certified
23 professional and offers or provides services to a
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1 student athlete customarily provided by members
2 of the profession, unless the individual:

3 (a) also recruits or solicits the athlete to
4 enter into an agency contract,

5 (b) also, for compensation, procures employment
6 or offers, promises, attempts or negotiates
7 to obtain employment for the athlete as a
8 professional athlete or member of a
9 professional sports team or organization, or

10 (c) receives consideration for providing the
11 services calculated using a different method
12 than for an individual who is not a student
13 athlete;

14 3. "Athletic director" means the individual responsible for
15 administering the overall athletic program of an educational
16 institution or, if an educational institution has separately
17 administered athletic programs for male students and female
18 students, the athletic program for males or the athletic program for
19 females, as appropriate;

20 4. "Educational institution" includes a public or private
21 elementary school, secondary school, technical or vocational school,
22 community college, college or university;

23 5. "Endorsement contract" means an agreement under which a
24 student athlete is employed or receives consideration to use on

1 behalf of the other party any value that the athlete may have
2 because of publicity, reputation, following or fame obtained because
3 of athletic ability or performance;

4 6. "Enrolled" means registered for courses and attending
5 athletic practice or class. "Enrolls" has a corresponding meaning;

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

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

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

21 10. "Person" means an individual, estate, business or nonprofit
22 entity, public corporation, government or governmental subdivision,
23 agency, or instrumentality or other legal entity;

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1 11. "Professional-sports-services contract" means an agreement
2 under which an individual is employed as a professional athlete or
3 agrees to render services as a player on a professional sports team
4 or with a professional sports organization;

5 12. "Record" means information that is inscribed on a tangible
6 medium or that is stored in an electronic or other medium and is
7 retrievable in perceivable form;

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

15 14. "Registration" means registration as an athlete agent under
16 the Revised Uniform Athlete Agents Act;

17 15. "Sign" means, with present intent to authenticate or adopt
18 a record:

19 a. to execute or adopt a tangible symbol, or

20 b. to attach to or logically associate with the record an
21 electronic symbol, sound or process;

22 16. "State" means a state of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or any
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1 territory or insular possession subject to the jurisdiction of the
2 United States; and

3 17. "Student athlete" means an individual who is eligible to
4 attend an educational institution and engages in, is eligible to
5 engage in, or may be eligible in the future to engage in any
6 interscholastic or intercollegiate sport. The term does not include
7 an individual permanently ineligible to participate in a particular
8 interscholastic or intercollegiate sport for that sport.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 823.3 of Title 70, unless there
11 is created a duplication in numbering, reads as follows:

12 SECRETARY OF STATE; AUTHORITY; PROCEDURE.

13 A. The Administrative Procedures Act applies to the Revised
14 Uniform Athlete Agents Act. The Secretary of State may adopt rules
15 under the Administrative Procedures Act to implement the Revised
16 Uniform Athlete Agents Act.

17 B. By acting as an athlete agent in this state, a nonresident
18 individual appoints the Secretary of State as the individual's agent
19 for service of process in any civil action in this state related to
20 the individual acting as an athlete agent in this state.

21 C. The Secretary of State may issue a subpoena for material
22 that is relevant to the administration of the Revised Uniform
23 Athlete Agents Act pursuant to Section 315 of Title 75 of the
24 Oklahoma Statutes.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 823.4 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 ATHLETE AGENT; REGISTRATION REQUIRED; VOID CONTRACT.

5 A. Except as otherwise provided in subsection B of this
6 section, an individual may not act as an athlete agent in this state
7 without holding a certificate of registration under the Revised
8 Uniform Athlete Agents Act.

9 B. Before being issued a certificate of registration under the
10 Revised Uniform Athlete Agents Act an individual may act as an
11 athlete agent in this state for all purposes except signing an
12 agency contract, if:

13 1. A student athlete or another person acting on behalf of the
14 athlete initiates communication with the individual; and

15 2. Not later than seven (7) days after an initial act that
16 requires the individual to register as an athlete agent, the
17 individual submits an application for registration as an athlete
18 agent in this state.

19 C. An agency contract resulting from conduct in violation of
20 this section is void, and the athlete agent shall return any
21 consideration received under the contract.

22 SECTION 5. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 823.5 of Title 70, unless there
24 is created a duplication in numbering, reads as follows:

1 REGISTRATION AS ATHLETE AGENT; APPLICATION; REQUIREMENTS;
2 RECIPROCAL REGISTRATION.

3 A. An applicant for registration as an athlete agent shall
4 submit an application for registration to the Secretary of State in
5 a form prescribed by the Secretary of State. The applicant must be
6 an individual, and the application must be signed by the applicant
7 under penalty of perjury. The application must contain at least the
8 following:

9 1. The name and date and place of birth of the applicant and
10 the following contact information for the applicant:

- 11 a. the address of the applicant's principal place of
12 business,
- 13 b. work and mobile telephone numbers, and
- 14 c. any means of communicating electronically including a
15 facsimile number, electronic-mail address, and
16 personal and business or employer websites;

17 2. The name of the applicant's business or employer, if
18 applicable including for each business or employer its mailing
19 address, telephone number, organization form and the nature of the
20 business;

21 3. Each social-media account with which the applicant or the
22 applicant's business or employer is affiliated;

23 4. Each business or occupation in which the applicant engaged
24 within five (5) years before the date of the application including

1 self-employment and employment by others, and any professional or
2 occupational license, registration or certification held by the
3 applicant during that time;

4 5. A description of the applicant's:

- 5 a. formal training as an athlete agent,
- 6 b. practical experience as an athlete agent, and
- 7 c. educational background relating to the applicant's
8 activities as an athlete agent;

9 6. The name of each student athlete for whom the applicant
10 acted as an athlete agent within five (5) years before the date of
11 the application or, if the individual is a minor, the name of the
12 parent or guardian of the minor, together with the athlete's sport
13 and last-known team;

14 7. The name and address of each person that:

- 15 a. is a partner, member, officer, manager, associate or
16 profit sharer or directly or indirectly holds an
17 equity interest of five percent (5%) or greater of the
18 athlete agent's business if it is not a corporation,
19 and
- 20 b. is an officer or director of a corporation employing
21 the athlete agent or a shareholder having an interest
22 of five percent (5%) or greater in the corporation;

23 8. A description of the status of any application by the
24 applicant or any person named under paragraph 7 of this subsection

1 for a state or federal business, professional or occupational
2 license, other than as an athlete agent, from a state or federal
3 agency including any denial, refusal to renew, suspension,
4 withdrawal or termination of the license and any reprimand or
5 censure related to the license;

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

- 11 a. the crime,
- 12 b. the law enforcement agency involved, and
- 13 c. if applicable, the date of the conviction and the fine
14 or penalty imposed;

15 10. Whether, within fifteen (15) years before the date of
16 application, the applicant or any person named under paragraph 7 of
17 this subsection has been a defendant or respondent in a civil
18 proceeding including a proceeding seeking a judicial determination
19 of incapacity pursuant to Sections 3-101 through 3-115 of Title 30
20 of the Oklahoma Statutes and, if so, the date and a full explanation
21 of each proceeding;

22 11. Whether the applicant or any person named under paragraph 7
23 of this subsection has an unsatisfied judgment or a judgment of
24 continuing effect including alimony or a domestic order in the

1 nature of child support, which is not current at the date of the
2 application;

3 12. Whether, within ten (10) years before the date of
4 application, the applicant or any person named under paragraph 7 of
5 this subsection was adjudicated bankrupt or was an owner of a
6 business that was adjudicated bankrupt;

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

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

17 15. Each sanction, suspension or disciplinary action taken
18 against the applicant or any person named under paragraph 7 of this
19 subsection arising out of occupational or professional conduct;

20 16. Whether there has been a denial of an application for,
21 suspension or revocation of, refusal to renew, or abandonment of,
22 the registration of the applicant or any person named under
23 paragraph 7 of this subsection as an athlete agent in any state;

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1 17. Each state in which the applicant currently is registered
2 as an athlete agent or has applied to be registered as an athlete
3 agent;

4 18. If the applicant is certified or registered by a
5 professional league or players association:

- 6 a. the name of the league or association,
- 7 b. the date of certification or registration, and the
8 date of expiration of the certification or
9 registration, if any, and
- 10 c. if applicable, the date of any denial of an
11 application for, suspension or revocation of, refusal
12 to renew, withdrawal of, or termination of, the
13 certification or registration or any reprimand or
14 censure related to the certification or registration;
15 and

16 19. Any additional information required by the Secretary of
17 State.

18 B. Instead of proceeding under subsection A of this section, an
19 individual registered as an athlete agent in another state may apply
20 for registration as an athlete agent in this state by submitting to
21 the Secretary of State:

22 1. A copy of the application for registration in the other
23 state;

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1 2. A statement that identifies any material change in the
2 information on the application or verifies there is no material
3 change in the information, signed under penalty of perjury; and

4 3. A copy of the certificate of registration from the other
5 state.

6 C. The Secretary of State shall issue a certificate of
7 registration to an individual who applies for registration under
8 subsection B of this section if the Secretary of State determines:

9 1. The application and registration requirements of the other
10 state are substantially similar to or more restrictive than this
11 act; and

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

16 D. For purposes of implementing subsection C of this section,
17 the Secretary of State shall:

18 1. Cooperate with national organizations concerned with athlete
19 agent issues and agencies in other states which register athlete
20 agents to develop a common registration form and determine which
21 states have laws that are substantially similar to or more
22 restrictive than the Revised Uniform Athlete Agents Act; and
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1 2. Exchange information including information related to
2 actions taken against registered athlete agents or their
3 registrations, with those organizations and agencies.

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 823.6 of Title 70, unless there
6 is created a duplication in numbering, reads as follows:

7 CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.

8 A. Except as otherwise provided in subsection B of this
9 section, the Secretary of State shall issue a certificate of
10 registration to an applicant for registration who complies with
11 subsection A of Section 5 of this act.

12 B. The Secretary of State may refuse to issue a certificate of
13 registration to an applicant for registration under subsection A of
14 Section 5 of this act if the Secretary of State determines that the
15 applicant has engaged in conduct that significantly adversely
16 reflects on the applicant's fitness to act as an athlete agent. In
17 making the determination, the Secretary of State may consider
18 whether the applicant has:

19 1. Pleaded guilty or no contest to, has been convicted of, or
20 has charges pending for, a crime that would involve moral turpitude
21 or be a felony if committed in this state;

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

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

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

4 5. Had a registration as an athlete agent suspended, revoked or
5 denied in any state;

6 6. Been refused renewal of registration as an athlete agent in
7 any state;

8 7. Engaged in conduct resulting in imposition of a sanction,
9 suspension or declaration of ineligibility to participate in an
10 interscholastic, intercollegiate or professional athletic event on a
11 student athlete or a sanction on an educational institution; or

12 8. Engaged in conduct that adversely reflects on the
13 applicant's credibility, honesty or integrity.

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

16 1. How recently the conduct occurred;

17 2. The nature of the conduct and the context in which it
18 occurred; and

19 3. Other relevant conduct of the applicant.

20 D. An athlete agent registered under subsection A of this
21 section may apply to renew the registration by submitting an
22 application for renewal in a form prescribed by the Secretary of
23 State. The applicant shall sign the application for renewal under
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1 penalty of perjury and include current information on all matters
2 required in an original application for registration.

3 E. An athlete agent registered under subsection C of Section 5
4 of this act may renew the registration by proceeding under
5 subsection D of this section or, if the registration in the other
6 state has been renewed, by submitting to the Secretary of State
7 copies of the application for renewal in the other state and the
8 renewed registration from the other state. The Secretary of State
9 shall renew the registration if the Secretary of State determines:

10 1. The registration requirements of the other state are
11 substantially similar to or more restrictive than the Revised
12 Uniform Athlete Agents Act; and

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

17 F. A certificate of registration or renewal of registration
18 under the Revised Uniform Athlete Agents Act is valid for two (2)
19 years.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 823.7 of Title 70, unless there
22 is created a duplication in numbering, reads as follows:

23 SUSPENSION, REVOCATION OR REFUSAL TO RENEW REGISTRATION.
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1 A. The Secretary of State may limit, suspend, revoke or refuse
2 to renew a registration of an individual registered under subsection
3 A of Section 6 of this act for conduct that would have justified
4 refusal to issue a certificate of registration under subsection B of
5 Section 6 of this act.

6 B. The Secretary of State may suspend or revoke the
7 registration of an individual registered under subsection C of
8 Section 5 of this act or renewed under subsection E of Section 6 of
9 this act for any reason for which the Secretary of State could have
10 refused to grant or renew registration or for conduct that would
11 justify refusal to issue a certificate of registration under
12 subsection B of Section 6 of this act.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 823.8 of Title 70, unless there
15 is created a duplication in numbering, reads as follows:

16 TEMPORARY REGISTRATION.

17 The Secretary of State may issue a temporary certificate of
18 registration as an athlete agent while an application for
19 registration or renewal of registration is pending.

20 SECTION 9. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 823.9 of Title 70, unless there
22 is created a duplication in numbering, reads as follows:

23 REGISTRATION AND RENEWAL FEES.

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1 A. An application for registration or renewal of registration
2 as an athlete agent must be accompanied by a fee in the following
3 amount:

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

6 2. One Thousand Dollars (\$1,000.00) for registration based on a
7 certificate of registration issued by another state;

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

10 4. One Thousand Dollars (\$1,000.00) for renewal of registration
11 based on a renewal of registration in another state.

12 B. Any registration in this state as an athlete agent under
13 prior law which has not expired before January 1, 2022, shall
14 continue to be valid until the date the registration expires.

15 C. All registration fees collected pursuant to this section
16 shall be deposited in the Revolving Fund for the Office of the
17 Secretary of State.

18 SECTION 10. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 823.10 of Title 70, unless there
20 is created a duplication in numbering, reads as follows:

21 REQUIRED FORM OF AGENCY CONTRACT.

22 A. An agency contract must be in a record signed by the
23 parties.

24 B. An agency contract must contain:

1 1. A statement that the athlete agent is registered as an
2 athlete agent in this state and a list of any other states in which
3 the agent is registered as an athlete agent;

4 2. The amount and method of calculating the consideration to be
5 paid by the student athlete for services to be provided by the agent
6 under the contract and any other consideration the agent has
7 received or will receive from any other source for entering into the
8 contract or providing the services;

9 3. The name of any person not listed in the agent's application
10 for registration or renewal of registration which will be
11 compensated because the athlete signed the contract;

12 4. A description of any expenses the athlete agrees to
13 reimburse;

14 5. A description of the services to be provided to the athlete;

15 6. The duration of the contract; and

16 7. The date of execution.

17 C. Subject to subsection G of this section, an agency contract
18 must contain a conspicuous notice in boldface type and in
19 substantially the following form:

20 WARNING TO STUDENT ATHLETE

21 IF YOU SIGN THIS CONTRACT:

22 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
23 ATHLETE IN YOUR SPORT;

24

1 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN SEVENTY-TWO (72)
2 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED
3 ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST,
4 BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR
5 THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND
6 CONTACT INFORMATION OF THE ATHLETE AGENT; AND

7 3. YOU MAY CANCEL THIS CONTRACT WITHIN FOURTEEN (14) DAYS AFTER
8 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR
9 ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.

10 D. An agency contract must be accompanied by a separate record
11 signed by the student athlete or, if the athlete is a minor, the
12 parent or guardian of the athlete acknowledging that signing the
13 contract may result in the loss of the athlete's eligibility to
14 participate in the athlete's sport.

15 E. A student athlete or, if the athlete is a minor, the parent
16 or guardian of the athlete may void an agency contract that does not
17 conform to this section. If the contract is voided, any
18 consideration received from the athlete agent under the contract to
19 induce entering into the contract is not required to be returned.

20 F. At the time an agency contract is executed, the athlete
21 agent shall give the student athlete or, if the athlete is a minor,
22 the parent or guardian of the athlete a copy in a record of the
23 contract and the separate acknowledgement required by subsection D
24 of this section.

1 G. If a student athlete is a minor, an agency contract must be
2 signed by the parent or guardian of the minor and the notice
3 required by subsection C of this section must be revised
4 accordingly.

5 SECTION 11. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 823.11 of Title 70, unless there
7 is created a duplication in numbering, reads as follows:

8 NOTICE TO EDUCATIONAL INSTITUTION.

9 A. In this section, "communicating or attempting to
10 communicate" means contacting or attempting to contact by an in-
11 person meeting, a record or any other method that conveys or
12 attempts to convey a message.

13 B. Not later than seventy-two (72) hours after entering into an
14 agency contract or before the next scheduled athletic event in which
15 the student athlete may participate, whichever occurs first, the
16 athlete agent shall give notice in a record of the existence of the
17 contract to the athletic director of the educational institution at
18 which the athlete is enrolled or at which the agent has reasonable
19 grounds to believe the athlete intends to enroll.

20 C. Not later than seventy-two (72) hours after entering into an
21 agency contract or before the next scheduled athletic event in which
22 the student athlete may participate, whichever occurs first, the
23 athlete shall inform the athletic director of the educational
24 institution at which the athlete is enrolled that the athlete has

1 entered into an agency contract and the name and contact information
2 of the athlete agent.

3 D. If an athlete agent enters into an agency contract with a
4 student athlete and the athlete subsequently enrolls at an
5 educational institution, the agent shall notify the athletic
6 director of the institution of the existence of the contract not
7 later than seventy-two (72) hours after the agent knew or should
8 have known the athlete enrolled.

9 E. If an athlete agent has a relationship with a student
10 athlete before the athlete enrolls in an educational institution and
11 receives an athletic scholarship from the institution, the agent
12 shall notify the institution of the relationship not later than ten
13 (10) days after the enrollment if the agent knows or should have
14 known of the enrollment and:

15 1. The relationship was motivated in whole or part by the
16 intention of the agent to recruit or solicit the athlete to enter an
17 agency contract in the future; or

18 2. The agent directly or indirectly recruited or solicited the
19 athlete to enter an agency contract before the enrollment.

20 F. An athlete agent shall give notice in a record to the
21 athletic director of any educational institution at which a student
22 athlete is enrolled before the agent communicates or attempts to
23 communicate with:

24

1 1. The athlete or, if the athlete is a minor, a parent or
2 guardian of the athlete to influence the athlete or parent or
3 guardian to enter into an agency contract; or

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

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

13 H. An educational institution that becomes aware of a violation
14 of the Revised Uniform Athlete Agents Act by an athlete agent shall
15 notify the Secretary of State and any professional league or players
16 association with which the institution is aware the agent is
17 licensed or registered of the violation.

18 SECTION 12. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 823.12 of Title 70, unless there
20 is created a duplication in numbering, reads as follows:

21 STUDENT ATHLETE'S RIGHT TO CANCEL.

22 A. A student athlete or, if the athlete is a minor, the parent
23 or guardian of the athlete may cancel an agency contract by giving
24

1 notice in a record of cancellation to the athlete agent not later
2 than fourteen (14) days after the contract is signed.

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

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

11 SECTION 13. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 823.13 of Title 70, unless there
13 is created a duplication in numbering, reads as follows:

14 REQUIRED RECORDS.

15 A. An athlete agent shall create and retain for five (5) years
16 records of the following:

17 1. The name and address of each individual represented by the
18 agent;

19 2. Each agency contract entered into by the agent; and

20 3. The direct costs incurred by the agent in the recruitment or
21 solicitation of each student athlete to enter into an agency
22 contract.

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1 B. Records described in subsection A of this section are open
2 to inspection by the Secretary of State during normal business
3 hours.

4 SECTION 14. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 823.14 of Title 70, unless there
6 is created a duplication in numbering, reads as follows:

7 PROHIBITED CONDUCT.

8 An athlete agent may not intentionally:

9 1. Give a student athlete or, if the athlete is a minor, a
10 parent or guardian of the athlete materially false or misleading
11 information or make a materially false promise or representation
12 with the intent to influence the athlete, parent or guardian to
13 enter into an agency contract;

14 2. Furnish a thing of value to the athlete or any other
15 individual, if to do so may result in the loss of the athlete's
16 eligibility to participate in the athlete's sport, unless:

17 a. the agent notifies the athletic director of the
18 educational institution at which the athlete is
19 enrolled or at which the agent has reasonable grounds
20 to believe the athlete intends to enroll, not later
21 than seventy-two (72) hours after giving the thing of
22 value, and

23 b. the athlete or, if the athlete is a minor, a parent or
24 guardian of the athlete acknowledges to the agent in a

1 record that receipt of the thing of value may result
2 in the loss of the athlete's eligibility to
3 participate in the athlete's sport;

4 3. Initiate contact, directly or indirectly, with a student
5 athlete or, if the athlete is a minor, a parent or guardian of the
6 athlete to recruit or solicit the athlete, parent or guardian to
7 enter an agency contract unless registered under the Revised Uniform
8 Athlete Agents Act;

9 4. Fail to create or retain or to permit inspection of the
10 records required by Section 13 of this act;

11 5. Fail to register when required by Section 4 of this act;

12 6. Provide materially false or misleading information in an
13 application for registration or renewal of registration;

14 7. Predate or postdate an agency contract;

15 8. Fail to notify a student athlete or, if the athlete is a
16 minor, a parent or guardian of the athlete before the athlete,
17 parent or guardian signs an agency contract for a particular sport
18 that the signing may result in the loss of the athlete's eligibility
19 to participate in the athlete's sport;

20 9. Encourage another individual to do any of the acts described
21 in paragraphs 1 through 8 of this section; or

22 10. Encourage another individual to assist any other individual
23 in doing any of the acts described in paragraphs 1 through 8 of this
24 section on behalf of the agent.

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 823.15 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 CRIMINAL PENALTY.

5 A. An athlete agent who violates Section 14 of this act is
6 guilty of a misdemeanor and, upon conviction, shall be subject to a
7 fine of not less than Ten Thousand Dollars (\$10,000.00) and not more
8 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or to
9 imprisonment not to exceed one (1) year, or to both such fine and
10 imprisonment.

11 B. An athlete agent who violates Section 14 of this act upon a
12 second or subsequent conviction shall be guilty of a felony and
13 subject to a fine of not less than Fifty Thousand Dollars
14 (\$50,000.00) and not more than Five Hundred Thousand Dollars
15 (\$500,000.00), or to imprisonment not to exceed three (3) years, or
16 to both such fine and imprisonment. All prior convictions in any
17 state of acts that would constitute a violation under Section 14 of
18 this act shall also constitute prior convictions under this section.

19 C. Fifty percent (50%) of all fines collected pursuant to this
20 section shall be deposited in the Attorney General's Law Enforcement
21 Revolving Fund created in Section 19.1 of Title 74 of the Oklahoma
22 Statutes.

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1 SECTION 16. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 823.16 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 CIVIL REMEDY.

5 A. An educational institution or student athlete may bring an
6 action for damages against an athlete agent if the institution or
7 athlete is adversely affected by an act or omission of the agent in
8 violation of the Revised Uniform Athlete Agents Act. An educational
9 institution or student athlete is adversely affected by an act or
10 omission of the agent only if, because of the act or omission, the
11 institution or an individual who was a student athlete at the time
12 of the act or omission and enrolled in the institution:

13 1. Is suspended or disqualified from participation in an
14 interscholastic or intercollegiate sports event by or under the
15 rules of a state or national federation or association that promotes
16 or regulates interscholastic or intercollegiate sports; or

17 2. Suffers financial damage.

18 B. A plaintiff that prevails in an action under this section
19 may recover actual damages, exemplary damages, costs and reasonable
20 attorney fees. An athlete agent found liable under this section
21 forfeits any right of payment for anything of benefit or value
22 provided to the student athlete and shall refund any consideration
23 paid to the agent by or on behalf of the athlete.

24

1 C. A violation of the Revised Uniform Athlete Agents Act shall
2 constitute a deceptive trade practice for purposes of the Oklahoma
3 Deceptive Trade Practices Act and, in addition to the remedies
4 provided for in this section, shall be subject to the remedies
5 provided in Section 54 of Title 78 of the Oklahoma Statutes.

6 SECTION 17. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 823.17 of Title 70, unless there
8 is created a duplication in numbering, reads as follows:

9 CIVIL PENALTY.

10 The Secretary of State may assess a civil penalty against an
11 athlete agent not to exceed Fifty Thousand Dollars (\$50,000.00) for
12 a violation of the Revised Uniform Athlete Agents Act.

13 SECTION 18. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 823.18 of Title 70, unless there
15 is created a duplication in numbering, reads as follows:

16 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

17 In applying and construing this uniform act, consideration must
18 be given to the need to promote uniformity of the law with respect
19 to its subject matter among states that enact it.

20 SECTION 19. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 823.19 of Title 70, unless there
22 is created a duplication in numbering, reads as follows:

23 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
24 COMMERCE ACT.

1 The Revised Uniform Athlete Agents Act modifies, limits or
2 supersedes the Electronic Signatures in Global and National Commerce
3 Act, 15 U.S.C., Section 7001 et seq., but does not modify, limit or
4 supersede Section 101(c) of that act, 15 U.S.C., Section 7001(c), or
5 authorize electronic delivery of any of the notices described in
6 Section 103(b) of that act, 15 U.S.C., Section 7003(b).

7 SECTION 20. AMENDATORY 78 O.S. 2011, Section 53, is
8 amended to read as follows:

9 Section 53. A. A person engages in a deceptive trade practice
10 when in the course of business, vocation, or occupation, the person:

- 11 1. Passes off goods or services as those of another;
- 12 2. Knowingly makes a false representation as to the source,
13 sponsorship, approval, or certification of goods or services;
- 14 3. Knowingly makes a false representation as to affiliation,
15 connection, association with, or certification by another;
- 16 4. Uses deceptive representations or designations of geographic
17 origin in connection with goods or services;
- 18 5. Knowingly makes a false representation as to the
19 characteristics, ingredients, uses, benefits or quantities of goods
20 or services or a false representation as to the sponsorship,
21 approval, status, affiliation, or connection of a person therewith;
- 22 6. Represents that goods are original or new if they are not;

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1 7. Represents that goods or services are a particular standard,
2 quality, or grade, or that goods are a particular style or model, if
3 they are another;

4 8. Disparages the goods, services, or business of another by
5 false or misleading representation of fact;

6 9. Advertises goods or services which differ from those offered
7 for sale in the advertisements;

8 10. Advertises goods or services with intent not to supply
9 reasonably expectable public demand, unless the advertisement
10 discloses a limitation of quantity;

11 11. Makes false or misleading statements of fact concerning the
12 reasons for, existence of, or amounts of price reductions;

13 12. Advertises the price of an item after deduction of a rebate
14 unless the actual selling price is advertised and clear and
15 conspicuous notice is given in the advertisement that a mail-in
16 rebate is required to achieve the lower net price;

17 13. Misrepresents the geographic location of the supplier by
18 listing a fictitious business name or an assumed business name in a
19 local telephone directory if:

20 a. the name misrepresents the geographic location of the
21 supplier,

22 b. the listing fails to identify the locality and state
23 of the business of the supplier,

24

- 1 c. calls to the local telephone number are routinely
2 forwarded or otherwise transferred to a business
3 location that is outside the calling area covered by
4 the local telephone directory, or
5 d. the business location of the supplier is located in a
6 county that is not contiguous to a county in the
7 calling area covered by the local telephone directory;
8 ~~or~~

9 14. Lists a fictitious business name or assumed business name
10 in a directory assistance database if:

- 11 a. the name misrepresents the geographic location of the
12 supplier,
13 b. calls to the local telephone number are routinely
14 forwarded or otherwise transferred to a business
15 location that is outside the local calling area, or
16 c. the business location of the supplier is located in a
17 county that is not contiguous to a county in the local
18 calling area; or

19 15. Violates any provision of the Revised Uniform Athlete
20 Agents Act.

21 B. Evidence that a person has engaged in a deceptive trade
22 practice shall be prima facie evidence of intent to injure
23 competitors and to destroy or substantially lessen competition.
24

1 C. The deceptive trade practices listed in this section are in
2 addition to and do not limit the types of unfair trade practices
3 actionable at common law or under other statutes of this state.

4 SECTION 21. AMENDATORY 78 O.S. 2011, Section 54, is
5 amended to read as follows:

6 Section 54. A. Any person damaged or likely to be damaged by a
7 deceptive trade practice of another may maintain an action in any
8 court of equitable jurisdiction to prevent, restrain or enjoin such
9 deceptive trade practice. Proof of actual monetary damages, loss of
10 profits or intent shall not be required. If in such action damages
11 are alleged and proved, the plaintiff, in addition to injunctive
12 relief, shall be entitled to recover from the defendant the actual
13 damages sustained by the person.

14 B. With respect to the deceptive trade practices described in
15 paragraphs 13 ~~and~~, 14 and 15 of subsection A of Section 53 of this
16 title, the Attorney General or a district attorney of this state is
17 authorized to bring actions seeking the following relief:

- 18 1. Injunctions directed against persons engaged in such
19 deceptive trade practices;
- 20 2. Recovery of the money unlawfully received from aggrieved
21 consumers by persons engaged in the deceptive trade practices to be
22 held in escrow for distribution to the aggrieved consumers; and
- 23 3. Recovery by the state of the reasonable expenses incurred in
24 the investigation of the deceptive trade practices.

1 C. In any action instituted under the provisions of ~~this act~~
2 the Oklahoma Deceptive Trade Practices Act, the court may, in its
3 discretion, award reasonable ~~attorneys'~~ attorney fees to the
4 prevailing party. If in any such action the court finds either (1)
5 that the defendant has willfully engaged in a deceptive trade
6 practice or (2) that the plaintiff has acted in bad faith in
7 instituting the action, the court shall award reasonable ~~attorneys'~~
8 attorney fees to the prevailing party.

9 D. The relief provided for in this section is in addition to
10 and not in exclusion of remedies otherwise available against the
11 same conduct pursuant to the common law or other statutes of this
12 state.

13 E. Any duly organized and existing trade association, whether
14 incorporated or not, is hereby authorized to institute and prosecute
15 a suit or suits for injunctive relief hereunder as the real party in
16 interest, for or on behalf of one or more of its members, when a
17 deceptive trade practice directly or indirectly affects or threatens
18 to affect or injure such member or members.

19 SECTION 22. REPEALER 70 O.S. 2011, Sections 821.81,
20 821.82, 821.83, 821.84, 821.85, as amended by Section 1, Chapter
21 173, O.S.L. 2012, 821.86, 821.87, 821.88, 821.89, 821.90, 821.91,
22 821.92, 821.93, 821.94, 821.95, 821.96, 821.97, 821.98 and 821.99
23 (70 O.S. Supp. 2020, Section 821.85), are hereby repealed.

SECTION 23. This act shall become effective January 1, 2022.

COMMITTEE REPORT BY: COMMITTEE ON HIGHER EDUCATION AND CAREER TECH,
dated 03/30/2021 - DO PASS.