

By: Dutton

H.B. No. 4155

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of athlete agents.

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

SECTION 1. Section 2051.001, Occupations Code, is amended by amending Subdivisions (1), (2), and (3) and adding Subdivisions (3-a) and (5-b) to read as follows:

(1) "Agent contract" means a contract or an agreement under which an athlete authorizes an athlete agent to negotiate or solicit ~~[for employment]~~ on behalf of the athlete ~~[with]~~ a professional sports services contract or endorsement contract ~~[team]~~.

(2) "Athlete" means an individual who:

(A) is eligible to participate in intercollegiate sports contests as a member of any ~~[a]~~ sports team or as an individual competitor in any ~~[a]~~ sport at an institution of higher education; or

(B) has participated as a member of any ~~[an]~~ intercollegiate sports team or as an individual competitor in any ~~[an]~~ intercollegiate sport at an institution of higher education and has never signed an employment contract with a professional sports team.

(3) "Athlete agent" means an individual other than a spouse, parent, sibling, or guardian of a student athlete or an individual acting solely on behalf of a professional sports team or

1 professional sports organization, who:

2 (A) [~~for compensation,~~] directly or indirectly  
3 recruits or solicits an athlete to enter into an agent contract, a  
4 financial services contract, or a professional sports services  
5 contract with that individual or another person; [~~or~~]

6 (B) for compensation or in anticipation of  
7 compensation [~~a fee,~~] procures, offers, promises, or attempts to  
8 obtain employment for an athlete under [~~with~~] a professional sports  
9 services contract or an endorsement contract; or

10 (C) represents to the public that the individual  
11 is an athlete agent [~~team~~].

12 (3-a) "Endorsement contract" means an agreement under  
13 which an athlete is employed or receives consideration in exchange  
14 for providing on behalf of the other party the value of the  
15 athlete's reputation, publicity, following, or fame obtained as a  
16 result of athletic ability or performance.

17 (5-b) "Professional sports services contract" means  
18 an agreement under which an individual is employed as a  
19 professional athlete or agrees to render services as a player on a  
20 foreign or domestic professional sports team or with a foreign or  
21 domestic professional sports organization.

22 SECTION 2. Sections 2051.151(a) and (a-1), Occupations  
23 Code, are amended to read as follows:

24 (a) An athlete agent shall, before contacting an athlete or  
25 entering into an agent contract with an athlete in this state,  
26 deposit with the secretary of state a surety bond or other security  
27 in a form prescribed by the secretary of state, in the amount of

1 \$50,000, payable to the state and conditioned on:

2 (1) the athlete agent complying with this chapter;

3 (2) the payment of any administrative penalty assessed  
4 under Subchapter J; and

5 (3) the payment of any damages awarded to an  
6 institution of higher education or an athlete as a result of the  
7 athlete agent offering or providing a thing of value to an athlete  
8 or a family member of the athlete.

9 (a-1) An athlete agent shall, before entering into a  
10 financial services contract with an athlete, deposit with the  
11 secretary of state a surety bond or other security in a form  
12 prescribed by the secretary of state, in the amount of \$100,000,  
13 payable to the state and conditioned on:

14 (1) the athlete agent complying with this chapter;

15 (2) the payment of money owed to an individual or group  
16 of individuals when the athlete agent or the athlete agent's  
17 representative or agent receives the money; and

18 (3) the payment of damages to an athlete caused by the  
19 intentional misrepresentation, fraud, deceit, or unlawful or  
20 negligent act or omission of the athlete agent or of the athlete  
21 agent's representative or employee while acting within the scope of  
22 the financial services contract.

23 SECTION 3. Section 2051.351(a), Occupations Code, is  
24 amended to read as follows:

25 (a) An athlete agent may not:

26 (1) publish or cause to be published:

27 (A) false, fraudulent, or misleading

1 information; or

2 (B) a false, fraudulent, or misleading:

3 (i) representation;

4 (ii) notice; or

5 (iii) advertisement;

6 (2) provide false information;

7 (3) make a false promise or representation relating to  
8 employment;

9 (4) divide fees with or receive compensation from:

10 (A) a person exempt from registration under this  
11 chapter under Section [2051.005](#);

12 (B) a professional sports league or franchise,  
13 including a representative or employee of the league or franchise;  
14 or

15 (C) an institution of higher education,  
16 including a representative or employee of the institution's  
17 athletics department;

18 (5) enter into a written or oral agreement with an  
19 employee of an institution of higher education in which the athlete  
20 agent offers a thing of value to the employee for the referral of  
21 clients by the employee;

22 (6) before an athlete completes the athlete's last  
23 intercollegiate sports contest in any sport for which the athlete  
24 may be eligible, offer a thing of value to the athlete or an  
25 individual related to the athlete within the second degree by  
26 affinity or consanguinity to induce the athlete to enter into an  
27 agreement with the athlete agent in which the athlete agent will

1 represent the athlete;

2 (7) before an athlete completes the athlete's last  
3 intercollegiate sports contest in any sport for which the athlete  
4 may be eligible, furnish a thing of value to the athlete or an  
5 individual related to the athlete within the second degree by  
6 affinity or consanguinity;

7 (8) except as provided by this chapter, before an  
8 athlete completes the athlete's last intercollegiate sports  
9 contest in any sport for which the athlete may be eligible:

10 (A) directly contact the athlete; or

11 (B) enter into an oral or written agreement with  
12 the athlete for the athlete agent to represent the athlete;

13 (9) furnish anything of value to any person other than  
14 the athlete or another registered athlete agent to induce an  
15 athlete to enter into an agreement with the athlete agent;

16 (10) initiate any contact with an athlete, except as  
17 authorized by this chapter;

18 (11) fail to retain or permit inspection of the  
19 records required to be retained by Section [2051.352](#);

20 (12) predate or postdate an agent contract;

21 (13) fail to notify an athlete before the athlete  
22 signs an agent contract that the signing may make the athlete  
23 ineligible to participate in intercollegiate sports; or

24 (14) commit an act or cause a person to commit an act  
25 on the athlete agent's behalf that causes an athlete to violate a  
26 rule of the national association for the promotion and regulation  
27 of intercollegiate athletics of which the athlete's institution of

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1 higher education is a member.

2 SECTION 4. This Act takes effect September 1, 2017.