

By: West

S.B. No. 1127

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain professional services provided to student athletes.

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

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

(1) "Agency [~~Agent~~] contract" means a contract or an agreement under which an athlete authorizes a person [~~an athlete agent~~] to:

(A) negotiate for employment on behalf of the athlete with a professional sports team or organization; or

(B) solicit an endorsement contract on behalf of the athlete.

(3) "Athlete agent" means an individual, regardless of whether the individual is registered under this chapter, who:

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

(B) for compensation [~~a fee~~], procures, offers, promises, [~~or~~] attempts, or negotiates to obtain employment for an athlete as a professional athlete or member of [~~with~~] a professional sports team or organization or attempts to solicit an

endorsement contract for the athlete;

(C) for compensation or in anticipation of compensation related to an athlete's employment as a professional athlete or member of a professional sports team or organization, or in anticipation of representing an athlete for employment as a professional athlete or member of a professional sports team or organization:

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

(ii) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or

(D) provides payment or other consideration to the athlete or another person in anticipation of representing the athlete for employment as a professional athlete or member of a professional sports team or organization.

(3-a) "Endorsement contract" means a contract or an agreement under which an athlete is employed or receives consideration in exchange for allowing the other party to the contract to use the athlete's name, likeness, or reputation to endorse a product or service.

SECTION 2. Section 2051.005, Occupations Code, is amended to read as follows:

Sec. 2051.005. CERTAIN PROFESSIONAL ACTIVITIES [~~SERVICES~~] EXEMPT. This chapter does not apply to a person who:

(1) is an employee of an institution of higher

1 education and who, acting exclusively as an employee of and for the  
2 benefit of that institution, serves an athlete in an advisory  
3 capacity on a matter related to finances, business pursuits, or  
4 career management decisions;

5 (2) acts exclusively on behalf of a professional  
6 sports team or organization; or

7 (3) directly or indirectly recruits or solicits an  
8 athlete to enter into a contract with the person in which, for  
9 compensation, the person performs financial services for the  
10 athlete if:

11 (A) [~~(1)~~] the person is licensed or registered by  
12 the state as:

13 (i) [~~(A)~~] a dealer, agent, investment  
14 adviser, or investment adviser representative;

15 (ii) [~~(B)~~] a real estate broker or  
16 salesperson;

17 (iii) [~~(C)~~] an insurance agent; or

18 (iv) [~~(D)~~] another professional;

19 (B) [~~(2)~~] the financial services performed by  
20 the person are of a type that are customarily performed by a person  
21 licensed or registered in that profession; and

22 (C) [~~(3)~~] the person does not:

23 (i) directly or indirectly [~~(A)~~] recruit or  
24 solicit the athlete to enter into an agency [~~agent~~] contract or a  
25 professional sports services contract on behalf of the person, an  
26 affiliate, a related entity, or a third party; [~~or~~]

27 (ii) [~~(B)~~] procure, offer, promise, [~~or~~]

1 attempt, or negotiate to obtain for the athlete employment as a  
2 professional athlete or member of ~~[with]~~ a professional sports team  
3 or organization; or

4 (iii) provide financial services to an  
5 athlete for payment or consideration calculated using a different  
6 method than the person uses to calculate payment or consideration  
7 for those services when provided to an individual who is not an  
8 athlete.

9 SECTION 3. Sections 2051.101(b), (c), and (d), Occupations  
10 Code, are amended to read as follows:

11 (b) Before the issuance of a certificate of registration  
12 under this chapter, an individual may act as an athlete agent in  
13 this state for all purposes except signing an agency ~~[agent]~~  
14 contract, if:

15 (1) an athlete or a person acting on behalf of the  
16 athlete initiates communication with the individual; and

17 (2) within seven days after the date of the initial act  
18 as an athlete agent, the individual submits an application for  
19 registration under this chapter.

20 (c) An agency ~~[agent]~~ contract negotiated by an  
21 unregistered athlete agent is void.

22 (d) An agency ~~[agent]~~ contract with an athlete in a sport  
23 for which there is a national professional sports association is  
24 void if the contract is negotiated by an athlete agent holding a  
25 limited certificate of registration.

26 SECTION 4. Section 2051.151(a), Occupations Code, is  
27 amended to read as follows:

1           (a) An athlete agent shall, before contacting an athlete or  
2 entering into an agency [~~agent~~] contract with an athlete in this  
3 state, deposit with the secretary of state a surety bond, in the  
4 amount of \$50,000, payable to the state and conditioned on:

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

6                   (2) the payment of any administrative penalty assessed  
7 under Subchapter J; and

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

12           SECTION 5. Section [2051.201](#), Occupations Code, is amended  
13 to read as follows:

14           Sec. 2051.201. CONTRACT FORM. (a) A registered athlete  
15 agent must use a form approved by the secretary of state for any  
16 agency [~~agent~~] contract or financial services contract.

17           (b) The secretary of state shall by rule require that, to  
18 the extent practicable, the form for an agency [~~agent~~] contract or  
19 financial services contract conforms to the contract form approved  
20 by the national professional sports association for the sport in  
21 which the athlete will be represented.

22           SECTION 6. Section [2051.202](#), Occupations Code, is amended  
23 to read as follows:

24           Sec. 2051.202. CONTRACT SIGNING. An athlete may sign an  
25 athlete agency [~~agent~~] contract at any time as permitted by the  
26 national association for the promotion and regulation of  
27 intercollegiate athletics of which the athlete's institution of

1 higher education is a member.

2 SECTION 7. Section 2051.203(a), Occupations Code, is  
3 amended to read as follows:

4 (a) An agency [~~agent~~] contract or a financial services  
5 contract must include:

6 (1) a schedule of fees, including:

7 (A) the amount and method of computing the  
8 consideration to be paid by the athlete for services to be provided  
9 by the athlete agent under the contract; and

10 (B) any other consideration the athlete agent  
11 received or will receive from any other source for entering into the  
12 contract or for providing the services;

13 (2) a description of the professional services that  
14 the athlete agent will perform for the athlete;

15 (3) the name of any person not listed in the  
16 application for registration or renewal of registration who will be  
17 compensated because the athlete signed the agency [~~agent~~] contract;

18 (4) a description of any expenses of the athlete agent  
19 the athlete agrees to reimburse;

20 (5) the duration of the contract; and

21 (6) the date the contract was signed.

22 SECTION 8. Section 2051.204(a), Occupations Code, is  
23 amended to read as follows:

24 (a) An agency [~~agent~~] contract or a financial services  
25 contract must include the following notice:

26 (1) THIS ATHLETE AGENT IS REGISTERED WITH THE  
27 SECRETARY OF STATE OF THE STATE OF TEXAS. REGISTRATION WITH THE

1 SECRETARY OF STATE DOES NOT IMPLY APPROVAL OR ENDORSEMENT BY THE  
2 SECRETARY OF STATE OF THE COMPETENCE OF THE ATHLETE AGENT OR OF THE  
3 SPECIFIC TERMS AND CONDITIONS OF THIS CONTRACT.

4 NOTICE TO CLIENT

5 (2) DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT OR  
6 IF IT CONTAINS BLANK SPACES.

7 (3) IF YOU DECIDE THAT YOU DO NOT WISH TO PURCHASE THE  
8 SERVICES OF THE ATHLETE AGENT, YOU MAY CANCEL THIS CONTRACT BY  
9 NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL THE  
10 CONTRACT NOT LATER THAN THE 16TH DAY AFTER THE DATE ON WHICH YOU  
11 SIGN THIS CONTRACT. YOU MAY NOT WAIVE THE RIGHT TO CANCEL THIS  
12 CONTRACT. IF YOU CANCEL THIS CONTRACT WITHIN 16 DAYS, YOU ARE NOT  
13 REQUIRED TO PAY ANY CONSIDERATION UNDER THE CONTRACT OR RETURN ANY  
14 CONSIDERATION RECEIVED.

15 (4) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS AN  
16 ATHLETE IN YOUR SPORT. CANCELLATION OF THIS CONTRACT MAY NOT  
17 REINSTATE YOUR ELIGIBILITY.

18 (5) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS  
19 AFTER ENTERING INTO THIS CONTRACT BOTH YOU AND YOUR ATHLETE AGENT  
20 MUST NOTIFY YOUR ATHLETIC DIRECTOR.

21 SECTION 9. Section 2051.205, Occupations Code, is amended  
22 to read as follows:

23 Sec. 2051.205. FILING REQUIREMENTS. (a) A registered  
24 athlete agent shall, not later than the 10th day after the date an  
25 athlete signs an agency ~~[agent]~~ contract or financial services  
26 contract, file a copy of the contract with:

27 (1) the secretary of state; and

1           (2) if the athlete is a student at an institution of  
2 higher education, the athletic director of the athlete's  
3 institution.

4           (b) If the schedule of fees in an agency contract ~~[agent]~~ or  
5 financial services contract is changed, the athlete agent shall  
6 file with the secretary a copy of the changed contract.

7           SECTION 10. Section [2051.351](#)(a), Occupations Code, is  
8 amended to read as follows:

9           (a) An athlete agent may not:

10           (1) publish or cause to be published:

11                   (A) false, fraudulent, or misleading  
12 information; or

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

14                           (i) representation;

15                           (ii) notice; or

16                           (iii) advertisement;

17           (2) provide false information;

18           (3) make a false promise or representation relating to  
19 employment;

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

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

23                   (B) a professional sports league or franchise,  
24 including a representative or employee of the league or franchise;  
25 or

26                   (C) an institution of higher education,  
27 including a representative or employee of the institution's



1 athletics department;

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

6 (6) before an athlete completes the athlete's last  
7 intercollegiate sports contest, offer a thing of value to the  
8 athlete or an individual related to the athlete within the second  
9 degree by affinity or consanguinity to induce the athlete to enter  
10 into an agreement with the athlete agent in which the athlete agent  
11 will represent the athlete;

12 (7) before an athlete completes the athlete's last  
13 intercollegiate sports contest, furnish a thing of value to the  
14 athlete or an individual related to the athlete within the second  
15 degree by affinity or consanguinity;

16 (8) except as provided by this chapter, before an  
17 athlete completes the athlete's last intercollegiate sports  
18 contest:

19 (A) directly contact the athlete; or

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

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

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

27 (11) fail to retain or permit inspection of the

records required to be retained by Section 2051.352;

(12) predate or postdate an agency [~~agent~~] contract;

(13) fail to notify an athlete before the athlete signs an agency [~~agent~~] contract that the signing may make the athlete ineligible to participate in intercollegiate sports; or

(14) commit an act or cause a person to commit an act on the athlete agent's behalf that causes an athlete to violate a rule of the national association for the promotion and regulation of intercollegiate athletics of which the athlete's institution of higher education is a member.

SECTION 11. Section 2051.352(a), Occupations Code, is amended to read as follows:

(a) An athlete agent shall maintain a record of:

(1) each athlete represented by the athlete agent, including:

(A) the name and address of the athlete;

(B) fees paid by the athlete; and

(C) services performed by the athlete agent for the athlete;

(2) travel and entertainment expenses incurred by the athlete agent, including expenses for:

(A) food and beverages;

(B) hospitality rooms;

(C) sporting events;

(D) theater and music events; and

(E) transportation, lodging, and admission relating to entertainment;

1           (3) any agency [~~agent~~] contract entered into by the  
2 athlete agent; and

3           (4) any direct costs incurred by the athlete agent in  
4 recruiting or soliciting an athlete to enter into an agency [~~agent~~]  
5 contract.

6           SECTION 12. The changes in law made by this Act apply only  
7 to services provided or to a contract or agreement entered or made  
8 on or after the effective date of this Act.

9           SECTION 13. This Act takes effect September 1, 2019.