

# HOUSE BILL No. 4524

March 11, 1991, Introduced by Reps. Bennane, Profit, DeMars, Palamara, Hertel, Pitoniak, Kosteva, Olshove, Gire, Knight, Harrison, Bartnik, Martin, Perry Bullard, Ostling, Gilmer and Johnson and referred to the Committee on Judiciary.

A bill to prescribe certain standards in contracts between athletes and athlete agents; and to provide for penalties and remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "athlete agent contract act".

3       Sec. 3. (1) As used in this act:

4       (a) "Agent contract" means any contract or agreement pursu-  
5 ant to which an athlete authorizes another individual to negoti-  
6 ate or solicit on behalf of the athlete for an endorsement con-  
7 tract, licensing contract, personal appearance contract, or a  
8 professional sports services contract.

9       (b) "Athlete" means an individual who is a student athlete,  
10 professional athlete, or an individual seeking to become a  
11 professional athlete.

1 (c) "Athlete agent" means an individual who, directly or  
2 indirectly and for valuable consideration or remuneration of any  
3 kind, does either of the following except as otherwise provided  
4 in subsection (2):

5 (i) Recruits or solicits an athlete to enter into an agent  
6 contract.

7 (ii) Enters into an agent contract with an athlete.

8 (d) "Endorsement contract" means an agreement pursuant to  
9 which a professional athlete is employed or receives remuneration  
10 to provide an endorsement of, or testimonial promoting of, a  
11 product or service.

12 (e) "Immediate family" means a student athlete's spouse,  
13 child, parent, stepparent, grandparent, grandchild, brother,  
14 sister, parent-in-law, brother-in-law, sister-in-law, nephew,  
15 niece, aunt, uncle, first cousin, or the spouse or guardian of  
16 any of the persons described in this subdivision.

17 (f) "Institution of higher education" means a public or pri-  
18 vate college or university. Institution of higher education  
19 includes a community college.

20 (g) "Licensing contract" means an agreement pursuant to  
21 which an athlete is employed or receives remuneration for autho-  
22 rizing another person to use his or her name or image in connec-  
23 tion with a product or service.

24 (h) "Person" means an individual, sole proprietorship, part-  
25 nership, association, corporation, or other legal entity.

26 (i) "Personal appearance contract" means an agreement  
27 pursuant to which an athlete is employed or receives remuneration

1 to deliver a speech or personally appear at an event or  
2 function.

3 (j) "Professional athlete" means an individual employed or  
4 receiving remuneration as a player on a professional sports team  
5 or as a participant in a professional sports event.

6 (k) "Professional sports services contract" means an agree-  
7 ment pursuant to which a person is employed or receives remunera-  
8 tion as a player on a professional sports team or as a partici-  
9 pant in a professional sports event.

10 (l) "Student athlete" means a person who engages in, is eli-  
11 gible to engage in, or may be eligible to engage in any intercol-  
12 legiate sports event or program.

13 (2) "Athlete agent" does not include a member of the student  
14 athlete's immediate family in a case where that member of the  
15 immediate family recruits or solicits that student athlete to  
16 enter into an agent contract or where that member of the immedi-  
17 ate family enters into an agent contract with that student  
18 athlete.

19 Sec. 5. Subject to section 19, an agent contract entered  
20 into in violation of this act is voidable at the option of the  
21 athlete.

22 Sec. 7. (1) Before entering into negotiations for an agent  
23 contract or attempting to represent an athlete, an athlete agent  
24 shall furnish to the athlete a document entitled "disclosure  
25 statement".

26 (2) The disclosure statement shall contain all of the  
27 following, in relation to the athlete agent:

1 (a) His or her educational background, including schools and  
2 colleges attended, the dates of attendance, and any degrees  
3 received.

4 (b) A list of professional licenses or designations held by  
5 the athlete agent, including the date received and the conferring  
6 authority.

7 (c) His or her special training or experience in subjects  
8 relative to the ability to serve as an athlete agent.

9 (d) His or her employment history including the job title,  
10 date of employment, job description, and the name, address, and  
11 telephone number of each employer.

12 (e) The name of a professional sports team in which an ath-  
13 lete agent, or the family members or affiliates of the athlete  
14 agent, has an ownership interest.

15 (f) A record of any sanctions issued to, or disciplinary  
16 actions taken against, the athlete agent, an athlete, an institu-  
17 tion of higher education, or a professional sport team as a  
18 result of the conduct of the athlete agent.

19 (g) A record of all misdemeanor and felony convictions of  
20 the athlete agent.

21 (3) An athlete agent who has authority, whether as part of  
22 the agent contract or by a separate agreement, to dispose, encum-  
23 ber, or invest any of the assets of the athlete shall disclose,  
24 in addition to the information required under subsection (2),  
25 both of the following, if applicable:

26 (a) The athlete agent's experience in business management,  
27 investing or investment counseling, brokerage services, or other

1 achievements demonstrative of the athlete agent's ability to  
2 render advice regarding the management or investment of the  
3 athlete's earnings.

4 (b) A description of any bankruptcy, receivership, or insol-  
5 vency proceedings within 10 years immediately preceding the date  
6 of the disclosure statement in which the athlete agent has been  
7 involved as a debtor.

8 (c) The name of any person in which the athlete agent,  
9 family members of the athlete agent, or any business affiliate of  
10 the athlete agent has more than a 5% ownership interest.

11 (d) If the athlete agent has an ownership interest in a  
12 person of more than 5%, then all of the following in relation to  
13 that person:

14 (i) Any indebtedness of more than \$5,000.00.

15 (ii) Membership on the board of directors.

16 (iii) Appointment or election as an officer.

17 (iv) Receipt of more than \$1,000.00 per year.

18 (4) An athlete agent shall notify an athlete he or she rep-  
19 resents pursuant to an agent contract of a change in the athlete  
20 agent's business address within 30 days after that change.

21 Sec. 9. An athlete with whom an athlete agent has entered  
22 into an agent contract may audit the books and records of the  
23 athlete agent that are related to the athlete during normal busi-  
24 ness hours upon 48 hours' written notice to the athlete agent.

25 Sec. 11. (1) An agent contract shall be in writing, exe-  
26 cuted by the athlete agent and the athlete, and in conformance

1 with section 13. All terms of the agent contract shall be  
2 contained in the written agent contract.

3 (2) The agent contract shall be written in the athlete's  
4 first language. As used in this subsection, "first language"  
5 means that language which the athlete speaks fluently and, if the  
6 athlete speaks more than 1 language, the language of his or her  
7 choice.

8 (3) Not less than 7 business days before the date of planned  
9 execution of the agent contract, the athlete agent shall provide  
10 a copy of the proposed agent contract and the disclosure state-  
11 ment required under section 7 to the athlete.

12 (4) An athlete may cancel the agent contract without cause  
13 not more than 3 business days after the date of execution of the  
14 agent contract. If an agent contract is canceled during the  
15 3 business day period, then an athlete agent shall not charge the  
16 athlete for any goods provided, services rendered, or expenses  
17 expended on behalf of the athlete during that 3-day period.

18 (5) An attorney rendering legal advice to an athlete con-  
19 cerning a proposed contract is exempt from this act if the attor-  
20 ney does not represent the athlete in negotiating or soliciting  
21 an endorsement contract, a licensing contract, a personal appear-  
22 ance contract, or a professional sports services contract.

23 Sec. 13. At a minimum, all of the following shall be con-  
24 tained in an agent contract:

25 (a) A provision in 12-point boldfaced type entitled "notice  
26 of cancellation" stating that an athlete has 3 business days  
27 after the date of execution to cancel the agent contract without

1 cause. This provision shall also include a declaration for the  
 2 athlete to sign and date indicating his or her decision to cancel  
 3 the agent contract.

4 (b) A provision outlining the athlete agent's compensation  
 5 that is similar or substantially similar to the following:

6 Agents Hourly Fee		
7 (If applicable)		\$ _____ per hour
8 Athlete's Total Annual	Agent's Total	% of Total Annual
9 Compensation	Fees	Compensation
10		(if scaled)
11 Less than \$100,000	\$ _____	_____ %
12 \$100,000 or more	\$ _____	_____ %
13 \$250,000 or more	\$ _____	_____ %
14 \$500,000 or more	\$ _____	_____ %
15 Athlete's Signing Bonus	Agent's Total Fee	% of Total Signing
16		Bonus
17 \$ _____	\$ _____	_____ %
18 Athlete's Incentive Bonus	Agent's Total Fee	% of Total Incentive
19		Bonus
20 \$ _____	\$ _____	_____ %
21 Athlete's Deferred	Agent's Total Fee	% of Total Deferred
22 Compensation		Compensation
23 \$ _____	\$ _____	_____ %
24 Athlete's Endorsement	Agent's Total Fee	% of Total Endorse-
25 Contract Compensation		ment Compensation
26 \$ _____	\$ _____	_____ %
27 Athlete's Appearance	Agent's Total Fee	% of Total Appear-
28 Contract Compensation		ance Compensation
29 \$ _____	\$ _____	_____ %

1 Athlete's Licensing	Agent's Total Fee	% of Total Licens-
2 Contract Compensation		ing Compensation
3 \$ _____	\$ _____	_____ %
4 Investment Services	Agent's Total Fee	% of Total Princi-
5		pal Appreciation or
6		income
7 \$ _____	\$ _____	_____ %
8 Miscellaneous	Agent's Total Fee	% of Total Miscella-
9 Compensation		neous Compensation
10 \$ _____	\$ _____	_____ %

11 (c) A provision in 12-point boldfaced type outlining both of  
 12 the following rights of the athlete under this act:

13 (i) The ability of the athlete to conduct an audit of the  
 14 books and records of the athlete agent.

15 (ii) The right of an athlete within 2 years of the date of  
 16 execution to file a civil action to void the agent contract due  
 17 to a violation of this act and the possibility of an award of  
 18 attorney fees and treble damages if the athlete prevails in the  
 19 action.

20 (d) A certification signed by the athlete agent that all the  
 21 information provided in the contract is true and complete to the  
 22 best of his or her knowledge.

23 (e) A provision entitled "acknowledgment and receipt" for  
 24 the signature of the athlete which certifies the date of receipt  
 25 of the agent contract.

26 Sec. 15. A copy of the disclosure statement described in  
 27 section 7 shall be attached to the agent contract at the time a  
 28 copy of the agent contract is provided to the athlete.

29 Sec. 17. An athlete agent who intentionally makes a false  
 30 statement or material omission in violation of this act which is



1 designed to deceive or persuade an athlete to sign an agent  
2 contract is guilty of a misdemeanor punishable by imprisonment  
3 for not more than 90 days or by a fine of not more than  
4 \$50,000.00, or both.

5       Sec. 19. (1) Not more than 2 years after the date of execu-  
6 tion of the agent contract, an athlete may bring a civil action  
7 to void the agent contract for violation of this act. If an ath-  
8 lete prevails in an action under this section, the court shall  
9 award actual attorney fees to the athlete.

10       (2) Upon proof of a willful violation of this act by the  
11 athlete agent, the court, in an action under subsection (1), may  
12 award to the athlete treble damages.

13       (3) In any action brought under this act, the court may  
14 award costs and actual attorney fees.

15       (4) This act does not prevent an athlete from bringing a  
16 civil action otherwise available under law in a court of compe-  
17 tent jurisdiction.