



HOUSE BILL No. 4400

March 2, 1993, Introduced by Reps. Bennane, DeMars, Palamara, Kilpatrick, Pitoniak, Saunders and Gubow 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 person to negotiate or
6 solicit on behalf of the athlete a professional sports services
7 contract.

8 (b) "Athlete" means an individual who participates in
9 athletics.

1 (c) "Athlete agent" means a person who, directly or
2 indirectly and for valuable consideration, does any of the
3 following:

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

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

7 (iii) Attempts to represent or represents an athlete in
8 soliciting, negotiating, or renegotiating a professional sports
9 services contract.

10 (d) "Immediate family" means an individual's parent, grand-
11 parent, brother, sister, parent-in-law, aunt, uncle, or the
12 spouse of any of the individuals described in this subdivision.

13 (e) "Person" means an individual, sole proprietorship, part-
14 nership, association, corporation, or other legal entity.

15 (f) "Professional sports services contract" means an agree-
16 ment pursuant to which a person receives remuneration as a player
17 on a professional sports team or as a participant in a profes-
18 sional sports event.

19 Sec. 5. (1) An individual or a person not an individual may
20 act as an athlete agent.

21 (2) A person shall not act as an athlete agent for any ath-
22 lete without a written agent contract.

23 Sec. 7. (1) A member of an athlete's immediate family may
24 act as that athlete's athlete agent without furnishing to the
25 athlete a disclosure statement required in section 9.

26 (2) An attorney rendering legal advice to an athlete
27 concerning a proposed or existing professional sports services

1 contract is exempt from this act if the attorney does not
2 represent the athlete in negotiating, renegotiating, or solicit-
3 ing a professional sports services contract.

4 Sec. 9. Not less than 7 business days before the date of
5 execution of the agent contract, an athlete agent shall furnish
6 to the athlete a document entitled "disclosure statement".

7 Sec. 11. (1) The disclosure statement for an athlete agent
8 that is an individual shall contain all of the following, in
9 relation to the athlete agent:

10 (a) His or her educational background, including colleges
11 attended, dates of attendance, and any degrees received.

12 (b) A list of professional licenses or designations held by
13 the athlete agent, including the date received and the conferring
14 authority.

15 (c) His or her employment history including the date of
16 employment, job description, and the name, address, and telephone
17 number of each employer.

18 (d) The name of 3 athletes for whom the athlete agent has
19 acted as an athlete agent, if the athlete agent has acted as an
20 athlete agent for an athlete.

21 (e) The name of any professional sports team in which the
22 athlete agent or his or her immediate family or business affili-
23 ate has an ownership interest.

24 (f) All sanctions issued to, or disciplinary actions taken
25 against, the athlete agent, an athlete, an institution of higher
26 education, or a professional sports team as a result of the
27 conduct of the athlete agent.

1 (g) All misdemeanor and felony convictions of the athlete
2 agent.

3 (2) An athlete agent who seeks authority, whether as part of
4 the agent contract or by a separate agreement, to dispose, encum-
5 ber, or invest any of the assets of the athlete shall disclose,
6 in addition to the information required under subsection (1), all
7 of the following:

8 (a) The athlete agent's experience in business management,
9 investing, investment counseling, or brokerage services.

10 (b) The date of any bankruptcy filed by the athlete agent or
11 any athlete represented by the athlete agent.

12 (c) The name of any person in which the athlete agent or his
13 or her immediate family or business affiliate has more than a 5%
14 ownership interest.

15 (3) The disclosure statement shall contain a certification
16 signed by the athlete agent stating that all information provided
17 in the disclosure statement is true and complete to the best of
18 his or her knowledge.

19 Sec. 13. (1) The disclosure statement of an athlete agent
20 that is not an individual shall contain all of the following, in
21 relation to the athlete agent:

22 (a) The educational background, including colleges attended,
23 dates of attendance, and any degrees received of each owner,
24 officer, and partner.

25 (b) A list of professional licenses or designations held by
26 each owner, officer, and partner, including the date received and
27 the conferring authority.

1 (c) The employment history of each owner, officer, and
2 partner.

3 (d) The name of 3 athletes for whom the athlete agent has
4 acted as an athlete agent, if the athlete agent has acted as an
5 athlete agent for an athlete.

6 (e) The name of any professional sports team in which an
7 athlete agent or the immediate family members of its owners,
8 officers, partners, or shareholders or business affiliates have
9 an ownership interest.

10 (f) All sanctions issued to, or disciplinary actions taken
11 against, the athlete agent, 1 of its athlete agents, an athlete,
12 an institution of higher education, or a professional sports team
13 as a result of the conduct of the athlete agent.

14 (g) All misdemeanor and felony convictions of each owner,
15 officer, partner, or shareholder owning 10% or more of its
16 stock.

17 (2) The disclosure statement of an athlete agent that is not
18 an individual which seeks authority to dispose, encumber, or
19 invest any of the assets of an athlete in addition to the disclo-
20 sure statement provided for in subsection (1) shall contain all
21 of the following:

22 (a) The athlete agent's experience in business management,
23 investing, investment counseling, or brokerage services.

24 (b) The date of any bankruptcy or receivership filed by the
25 athlete agent or any athlete represented by the athlete agent.

26 (c) The name of any person in which the athlete agent or the
27 immediate family member of its owners, officers, partners, or

1 shareholders or business affiliates have more than a 5% ownership
2 interest.

3 (3) The disclosure statement shall contain a certification
4 signed by an owner, officer, or partner of the athlete agent
5 stating that all information provided in the disclosure statement
6 is true and complete to the best of his or her knowledge.

7 Sec. 15. (1) An agent contract shall be in writing, exe-
8 cuted by the athlete agent and the athlete, and in conformance
9 with section 17. All terms of the agent contract shall be con-
10 tained in the written agent contract.

11 (2) The agent contract shall be written in that language
12 which the athlete speaks fluently and, if the athlete speaks more
13 than 1 language, the language of his or her choice.

14 (3) Not less than 7 business days before the date of execu-
15 tion of the agent contract, the athlete agent shall provide a
16 copy of the proposed agent contract to the athlete.

17 Sec. 17. (1) At a minimum, all of the following shall be
18 contained in an agent contract:

19 (a) A provision outlining the athlete agent's services and
20 compensation in a form substantially similar to the following:

	Service		Flat	Fee	
	Yes	No		Hourly	%
21 Negotiation of professional					
22 sports services contract for					
23 (fill in sport)					
24 Negotiation of endorsement or					
25 licensing contract					
26 Investment services					
27 Tax consulting					

1 Legal services _____

2 (b) The following provisions in 12-point boldfaced type:

3 (i) A "notice of cancellation" stating that an athlete has
4 3 business days after the date of execution to cancel the agent
5 contract without cause. This provision shall also include a dec-
6 laration for the athlete to sign and date indicating his or her
7 decision to cancel the agent contract.

8 (ii) The right of the athlete to conduct an audit of the
9 books and records of the athlete agent.

10 (iii) The right of an athlete within 2 years after the date
11 of execution to file a civil action to void the agent contract
12 due to a violation of this act and the possibility of an award of
13 attorney fees and treble damages if the athlete prevails in the
14 action.

15 (iv) A certification signed by the athlete agent that all
16 the information provided in the contract is true and complete to
17 the best of his or her knowledge.

18 (2) The fee notation described in subsection (1)(a) shall
19 indicate whether any percentage fee is scaled or if it differs
20 among the years of a multi-year contract. The fee notation shall
21 also indicate whether any fee is to be paid by the athlete "up
22 front" or as the athlete receives the compensation.

23 Sec. 19. An athlete agent shall provide the athlete a copy
24 of the agent contract at the time of its execution. A copy of
25 the disclosure statement described in section 11 or 13 shall be
26 attached to the agent contract.

1 Sec. 21. An athlete may cancel the agent contract without
2 cause not more than 3 business days after the date of execution
3 of the agent contract. If an agent contract is canceled during
4 the 3 business day period, then an athlete agent shall not charge
5 the athlete for any goods provided, services rendered, or
6 expenses expended on behalf of the athlete during that 3-day
7 period.

8 Sec. 23. An athlete agent who negotiates a professional
9 sports services contract for an athlete shall provide the follow-
10 ing to the athlete within 3 days after the execution of the
11 contract:

12 (a) A copy of the professional sports services contract.

13 (b) A statement of the amount and timing of all compensation
14 the athlete agent is to receive from the athlete as a result of
15 the athlete agent's negotiation of the professional sports serv-
16 ices contract.

17 Sec. 25. An athlete agent shall notify an athlete he or she
18 represents pursuant to an agent contract of a change in the ath-
19 lete agent's business address within 30 days after that change.

20 Sec. 27. An athlete with whom an athlete agent has entered
21 into an agent contract may audit the books and records of the
22 athlete agent that are related to the athlete during normal busi-
23 ness hours upon 48 hours' written notice to the athlete agent.

24 Sec. 29. An athlete agent who intentionally makes a false
25 statement or material omission designed to deceive or persuade an
26 athlete to sign an agent contract is guilty of a misdemeanor

1 punishable by imprisonment for not more than 90 days or by a fine
2 of not more than \$50,000.00, or both.

3 Sec. 31. (1) Not more than 2 years after the date of execu-
4 tion of the agent contract, an athlete may bring a civil action
5 to void the agent contract for violation of this act. If an ath-
6 lete prevails in an action under this section, the court shall
7 award costs and actual attorney fees to the athlete.

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

11 (3) The rights contained in this act are cumulative and do
12 not prevent an athlete from bringing a civil action which is oth-
13 erwise available in a court of competent jurisdiction.

14 Sec. 33. This act shall take effect April 1, 1994.