



HOUSE BILL No. 4436

March 4, 1993, Introduced by Reps. Profit, Bennane and Palamara and referred to the Committee on Judiciary.

A bill to license and regulate certain persons acting as athlete agents and agent firms; to prescribe certain powers and duties of certain state agencies and departments; 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 licensing act".

3 Sec. 3. 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) "Agent firm" means a person that engages or employs an
9 athlete agent and obtains, or seeks to obtain, an agent
10 contract.

1 (c) "Athlete" means an individual who participates in
2 athletics.

3 (d) "Athlete agent" means an individual who, directly or
4 indirectly and for valuable consideration, does any of the
5 following:

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

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

9 (iii) Attempts to represent an athlete in soliciting, nego-
10 tiating, or renegotiating a professional sports services
11 contract.

12 (e) "Department" means the department of commerce.

13 (f) "Good moral character" means that term as defined and
14 determined in Act No. 381 of the Public Acts of 1974, being sec-
15 tions 338.41 to 338.47 of the Michigan Compiled Laws.

16 (g) "Immediate family" means an individual's parent, grand-
17 parent, brother, sister, parent-in-law, aunt, uncle, or the
18 spouse of any of the persons described in this subdivision.

19 (h) "Licensee" means a person who is licensed pursuant to
20 this act.

21 (i) "Person" means an individual, sole proprietorship, part-
22 nership, association, corporation, or other legal entity.

23 (j) "Professional sports services contract" means a contract
24 or agreement pursuant to which an individual agrees to render
25 services as a player on a professional sports team or as a par-
26 ticipant in a professional sports event.

1 (k) "Student athlete" means an individual who engages in, is
2 eligible to engage in, or may be eligible to engage in any
3 intercollegiate sporting event, contest, exhibition, or program.

4 Sec. 5. (1) Except as otherwise provided in subsection (4),
5 a person shall not act or offer to act as an athlete agent or as
6 an agent firm unless the person is licensed pursuant to this act
7 in the appropriate category.

8 (2) The department shall license only an individual as an
9 athlete agent.

10 (3) The department may license any person as an agent firm.

11 (4) The following are exempt from this act:

12 (a) A boxing manager licensed under article 8 of the occupa-
13 tional code, Act No. 299 of the Public Acts of 1980, being sec-
14 tions 339.801 to 339.814 of the Michigan Compiled Laws.

15 (b) A member of the athlete's immediate family.

16 (c) An attorney rendering legal advice to an athlete con-
17 cerning a proposed or existing professional sports services con-
18 tract if the attorney does not represent the athlete in negotiat-
19 ing, renegotiating, or soliciting that professional sports serv-
20 ices contract.

21 (5) A license under this act is not transferrable.

22 (6) A student athlete may declare himself or herself ineli-
23 gible as a student athlete in a specified sport by filing a
24 statement declaring his or her ineligibility with the institution
25 of higher education in which the student athlete is enrolled.

26 Sec. 7. (1) An individual applying for a license as an
27 athlete agent under this act shall apply to the department on a

1 form provided by the department. The application form shall
2 include information required by this act and any other informa-
3 tion considered necessary by the department to fulfill its obli-
4 gations under this act.

5 (2) An individual licensed as an athlete agent under this
6 act shall meet all of the following requirements:

7 (a) Be at least 18 years of age.

8 (b) Be of good moral character.

9 (c) Not be under sanction or have been a participant in con-
10 duct which resulted in the issuing of a current sanction to an
11 athlete, professional sport team, or institution of higher educa-
12 tion by an intercollegiate sports coordinating body or profes-
13 sional sports association.

14 (d) Provide evidence of a bond as required by section 15.

15 (e) File with the department a disclosure statement meeting
16 the requirements of section 17.

17 (f) Pay the necessary fees prescribed in section 11.

18 Sec. 9. (1) The department shall issue an agent firm
19 license to a person who complies with all of the following
20 requirements:

21 (a) Provides a surety or cash bond as set forth in
22 section 15.

23 (b) Provides a statement of good moral character for each
24 owner, officer, or partner. This requirement shall be applicable
25 to the owner and to any subsequent owners, if the agent firm is a
26 sole proprietorship; to each officer and any subsequent officers
27 and to each shareholder owning 10% or more of the stock or

1 subsequent shareholders owning 10% or more of the stock, if the
2 agent firm is a corporation; and to each partner and to any sub-
3 sequent partners, if the agent firm is a partnership.

4 (c) Designates as a person in charge of the general manage-
5 ment of the office an athlete agent licensed or seeking licensure
6 under this act. The agent firm shall not begin to provide its
7 services until the athlete agent is licensed.

8 (2) A person shall obtain from the department an appropriate
9 license for each office.

10 (3) An agent firm license issued under this act and the
11 license of the athlete agent for each office shall be displayed
12 in a conspicuous place within the office of the agent firm.

13 (4) Within 15 days after an agent firm changes from a sole
14 proprietorship to a partnership or corporation, or from a part-
15 nership to a sole proprietorship or corporation, or from a corpo-
16 ration to a sole proprietorship or partnership, all licensure
17 requirements for the new entity shall be met.

18 (5) An agent firm which seeks to admit a new partner to an
19 existing partnership or a new officer or stockholder to an exist-
20 ing corporation shall notify the department within 15 days after
21 a change in the partners of a partnership or the officers of a
22 corporation or the stockholders of a corporation owning 10% or
23 more of the stock of the corporation. The notice shall be made
24 on a form provided by the department and shall contain informa-
25 tion by which the department may determine whether the new indi-
26 vidual is of good moral character.

1 (6) If a designated athlete agent is no longer employed by
2 the agent firm or is no longer charged with the general
3 management of the agent firm's office, the agent firm shall des-
4 ignate another licensed athlete agent and notify the department
5 within 15 days after the appointment is made.

6 (7) An athlete agent shall notify the department in writing
7 within 5 business days after the date he or she is no longer
8 employed by an agent firm or is no longer charged with the gen-
9 eral management of the office of that agent firm.

10 Sec. 11. (1) Fees for licensure under this act are as
11 follows:

- 12 (a) Application processing fee for agent firm..... \$500.00.
13 (b) Application processing fee for athlete agent.... 200.00.
14 (c) License fee, per year..... 500.00.
15 (d) Late renewal penalty..... 25.00.

16 (2) The department may charge a \$10.00 fee for the issuance
17 of a duplicate license, if the person applying for the duplicate
18 signs a statement that the original license has been lost,
19 stolen, or destroyed.

20 (3) The department may charge a \$5.00 fee for providing
21 written verification that a licensee is or is not licensed at the
22 time of the request for verification. If the person requesting
23 verification seeks specific detailed information beyond simple
24 confirmation of licensure, the charge shall be \$15.00.

25 (4) The department may charge a fee for the publication and
26 distribution of this act and the rules promulgated under this

1 act. The fee shall be \$5.00 or the cost of the publication,
2 whichever is greater.

3 (5) The department may charge a \$10.00 fee for correcting
4 its records and issuing a new license when a licensee notifies
5 the department of a change of any information requiring the issu-
6 ance of a new license. If the change does not require the issu-
7 ance of a new license, a charge shall not be made for correcting
8 department records.

9 Sec. 13. (1) The license issued under this act shall be
10 conspicuously displayed in the athlete agent's or agent firm's
11 place of business. Each licensed athlete agent shall carry and
12 produce upon demand a pocket card provided by the department
13 which indicates that the individual is licensed under this act.

14 (2) An athlete agent shall notify the department of any
15 change of business address not later than 30 days after the
16 change occurs.

17 (3) A nonresident of this state may be licensed under this
18 act if the person complies with this act, including the filing of
19 an irrevocable consent to service of process on a form provided
20 by the department. The consent shall be signed by the applicant
21 and shall be notarized. The consent shall indicate that a pro-
22 cess or pleading served upon the department shall be sufficient
23 service upon the licensee if the plaintiff simultaneously for-
24 wards by certified mail 1 copy of the process or pleading to the
25 business address of the licensee.

26 Sec. 15. (1) Subject to section 29(h), an agent firm and
27 athlete agent shall provide a cash or surety bond with a

1 principal sum of \$25,000.00, payable to the people of the state
2 of Michigan and conditioned that the licensee will do all of the
3 following:

4 (a) Comply with this act and rules promulgated under this
5 act.

6 (b) Pay all sums due a person at the time the sums are due
7 and payable.

8 (c) Pay all damages after a judgment or settlement to any
9 person by reason of intentional or unintentional misstatement,
10 misrepresentation, fraud, deceit, or any unlawful or negligent
11 acts, or omissions of the licensee while acting as a licensee, or
12 his or her representatives or employees while acting within the
13 scope of their employment, including, but not limited to, a vio-
14 lation of this act and rules promulgated under this act.

15 (2) The bond shall be made upon a form provided by the
16 department. A surety bond shall be written by a company recog-
17 nized and approved by the commissioner of insurance to do busi-
18 ness in this state. A cash bond shall be provided to the depart-
19 ment and deposited with the state treasurer in accordance with
20 the regulations of the department of treasury for the deposit of
21 cash bonds.

22 (3) A bond provided under this section shall not limit or
23 impair a right of recovery otherwise available under the law.

24 Sec. 17. (1) An athlete agent shall file with the depart-
25 ment a disclosure statement which shall contain all of the fol-
26 lowing, in relation to the athlete agent:

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

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

6 (c) His or her employment history including the date of
7 employment, job description, and the name, address, and telephone
8 number of each employer.

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

12 (e) The name of any professional sports team in which an
13 athlete agent or his or her immediate family members or business
14 affiliates has an ownership interest.

15 (f) All sanctions issued to, or disciplinary actions taken
16 against, the athlete agent, an athlete, an institution of higher
17 education, or a professional sport team as a result of the con-
18 duct of the athlete agent.

19 (g) All misdemeanor and felony convictions of the athlete
20 agent.

21 (2) An athlete agent who seeks authority to dispose, encum-
22 ber, or invest any of the assets of an athlete shall file with
23 the department a disclosure statement in addition to the disclo-
24 sure statement provided for in subsection (1) which contains all
25 of the following:

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

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

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

6 (3) An athlete agent shall file an updated disclosure state-
7 ment with the department within 30 days of a change in the infor-
8 mation required under subsection (1)(c).

9 (4) Not less than 7 business days before the date of execu-
10 tion of the agent contract, an athlete agent shall furnish to the
11 athlete a copy of the current disclosure statement on file with
12 the department.

13 (5) An athlete agent shall maintain a complete record of all
14 agent contracts and financial transactions involving those agent
15 contracts and shall permit the department to inspect those books
16 and records during customary business hours upon request.

17 Sec. 19. (1) An agent firm shall file with the department a
18 disclosure statement which shall contain all of the following, in
19 relation to the agent firm:

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

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

26 (c) The employment history of each owner, officer, and
27 partner.

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

4 (e) The name of any professional sports team in which an
5 agent firm or the immediate family members of its owners, offi-
6 cers, partners, or shareholders or business affiliates have an
7 ownership interest.

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

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

15 (2) An agent firm which seeks authority to dispose, encum-
16 ber, or invest any of the assets of an athlete shall file with
17 the department a disclosure statement in addition to the disclo-
18 sure statement provided for in subsection (1) which contains all
19 of the following:

20 (a) The agent firm's experience in business management,
21 investing, investment counseling, or brokerage services.

22 (b) The date of any bankruptcy or receivership filed by the
23 agent firm or any athlete represented by the agent firm.

24 (c) The name of any person in which the agent firm or the
25 immediate family member of its owners, officers, partners, or
26 shareholders or business affiliates have more than a 5% ownership
27 interest.

1 (3) An agent firm shall file an updated disclosure statement
2 with the department within 30 days of a change in the information
3 required under subsection (1)(c).

4 (4) Not less than 7 business days before the date of execu-
5 tion of the agent contract, an agent firm shall furnish to the
6 athlete a copy of the current disclosure statement on file with
7 the department.

8 Sec. 21. A licensee shall not do any of the following:

9 (a) Induce a student athlete to enter into an agent contract
10 before the student athlete's eligibility for collegiate athletics
11 expires except in the case of a student who has already filed a
12 notice of ineligibility.

13 (b) Enter into an agreement in which the licensee offers
14 anything of value to an employee of an institution of higher edu-
15 cation in return for the referral of a student athlete by that
16 employee.

17 (c) Commit fraud or deception or make a false statement or
18 representation designed to deceive or persuade an athlete to sign
19 an agent contract or to agree to any terms within or outside the
20 agent contract.

21 (d) Falsify any document or application required under this
22 act.

23 Sec. 23. (1) A license issued under this act shall be valid
24 for a period of 3 years and shall expire on March 31. A license
25 shall lapse on April 1, and a person whose license has lapsed
26 shall not engage in any activity requiring licensure under this

1 act until the department issues a current license in the
2 appropriate category.

3 (2) An athlete agent who renews within 60 days after the
4 expiration of a license may be relicensed upon filing all infor-
5 mation required for renewal and paying the late renewal penalty
6 set forth in section 11. A licensee whose license has lapsed for
7 more than 60 days after expiration shall be required to apply as
8 a new licensee and comply with all requirements of this act for
9 new applicants.

10 Sec. 25. The department may promulgate rules pursuant to
11 the administrative procedures act of 1969, Act No. 306 of the
12 Public Acts of 1969, being sections 24.201 to 24.328 of the
13 Michigan Compiled Laws, to implement this act.

14 Sec. 27. (1) The department shall review the operations of
15 licensees or persons not licensed under this act who are
16 allegedly acting as athlete agents and shall investigate com-
17 plaints received. The department may initiate contested case
18 proceedings based on the findings of a department investigation.

19 (2) The department may issue a cease and desist order to any
20 person determined by the department to be either of the
21 following:

22 (a) Acting as an athlete agent or agent firm without a
23 license issued under this act.

24 (b) A licensee acting in violation of this act or rules
25 promulgated under this act.

26 (3) After the issuance of a formal complaint by the
27 department, a matter shall be processed in accordance with the

1 administrative procedures act of 1969, Act No. 306 of the Public
2 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
3 Compiled Laws. Based upon findings of fact and conclusions of
4 law provided by an administrative law examiner, the department
5 shall determine whether a violation of this act or the rules
6 promulgated under this act has occurred and shall determine the
7 final disciplinary action to be taken.

8 (4) An authorized employee or agent of the department may
9 represent the department in any contested case hearing held pur-
10 suant to Act No. 306 of the Public Acts of 1969.

11 Sec. 29. The department may assess 1 or more of the follow-
12 ing penalties against a person who violates this act or a rule
13 promulgated under this act:

14 (a) Revocation of a license.

15 (b) Suspension of a license.

16 (c) Imposition of a civil fine of up to \$10,000.00 for each
17 offense.

18 (d) Denial, for a specified time, of a license or of the
19 renewal of a license.

20 (e) Restitution.

21 (f) Issuance of a license with special conditions, limita-
22 tions, or requirements.

23 (g) Issuance of a written reprimand or letter of censure as
24 a part of the permanent record of a licensee. However, the final
25 order shall stipulate a time following which a person may peti-
26 tion the department to remove the reprimand or censure from the
27 file.

1 (h) Imposition of a requirement that the bond required by
2 this act be increased and maintained for a specific period of
3 time.

4 Sec. 31. (1) A person who does either or both of the fol-
5 lowing is guilty of a misdemeanor punishable by imprisonment for
6 not more than 90 days or a fine of not more than \$25,000.00:

7 (a) Acts as or offers to act as an athlete agent without a
8 license issued under this act.

9 (b) Interferes with, impedes, or obstructs an investigation
10 conducted by the department under this act.

11 (2) The department or the department of attorney general may
12 petition the circuit court to issue a subpoena which shall
13 require the person subpoenaed to appear or produce relevant docu-
14 mentary material for examination during the conduct of an inves-
15 tigation or at a proceeding conducted by the department under the
16 administrative procedures act of 1969, Act No. 306 of the Public
17 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
18 Compiled Laws.

19 (3) The department or the department of attorney general may
20 petition the circuit court for injunctive relief or other reme-
21 dies at law to enforce orders of the department, this act, and
22 rules promulgated under this act.

23 Sec. 33. A person who engages in business as an athlete
24 agent or agent firm shall not bring or maintain an action in a
25 court in this state for the collection of money or compensation
26 for the performance of an act which is related to the business of
27 an athlete agent or agent firm or for the enforcement of an agent

1 contract entered into after April 1, 1994 without alleging and
2 proving that the person was licensed in the appropriate category
3 under this act during the entire performance of the act or
4 contract.

5 Sec. 35. This act shall take effect April 1, 1994.