

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 694

Introduced by Senator Sher

February 23, 2001

An act to *amend Sections 18895.2, 18896, 18896.6, 18897.3, and 18897.8 of, to add Section 18895.3 to, to add Chapter 2.6 (commencing with Section 18900) to Division 8 of, and to repeal Article 3 (commencing with Section 18897.6) of Chapter 2.5 of Division 8 of, the Business and Professions Code, relating to athlete agents.*

LEGISLATIVE COUNSEL'S DIGEST

SB 694, as amended, Sher. Athlete agents.

The Miller-Ayala Athlete Agents Act regulates specified activities of an athlete agent in representing or seeking to represent student athletes and professional athletes. Under this act, an agent is required to file with the Secretary of State specified information about his or her background, training, and experience and to advise an athlete of the availability of this information. The act also requires the athlete agent to establish a trust fund and deposit into it all funds received on behalf of the athlete and, if providing financial services to the athlete, to disclose potential conflicts of interest, as specified. This act imposes additional requirements pertaining to an athlete agent's transactions with a student athlete, specifying the circumstances under which an athlete agent may contact a student athlete or his or her family, and requiring the athlete agent to include a disclosure in a contract with a student athlete, warning the student that he or she may lose eligibility to compete in interscholastic or intercollegiate sports upon entering into the contract and allowing the student athlete to rescind the contract within 15 days. The act allows for a civil action to recover damages

resulting from its violation and makes void any contract that fails to comply with its requirements. The act also makes a violation of its provisions a misdemeanor offense.

This bill would *delete the provisions of the Miller-Ayala Athlete Agents Act that pertain to student athletes and would enact the Uniform Athlete Agents Act to regulate the activities of an athlete agent in soliciting or contracting with a student athlete to represent him or her in negotiations for a professional sports or endorsement contract, as defined. The bill would prohibit, subject to specified exceptions, a person from acting as an athlete agent without a certificate of registration issued by the Secretary of State, and would void any contract negotiated in violation of this requirement. The bill would allow, as specified, for the acceptance of registration as an athlete agent with another state. The bill would require that a contract between the athlete agent and student athlete contain specified provisions, including the right of the student athlete to cancel the contract within 14 days of its execution and a warning that the student may lose his or her eligibility to compete as a student athlete. The bill would require both the agent and student to notify the educational institution in which the student is enrolled within 72 hours of entering into the contract and would provide for a civil action by the educational institution against an athlete agent or student athlete for damages resulting from a violation of the requirements pertaining to transactions between a student athlete and athlete agent. The bill would prohibit specified conduct by an athlete agent and would make the commission of that conduct by an athlete agent grounds for the Secretary of State to revoke or suspend the athlete agent's registration and to assess a civil penalty not to exceed \$25,000 against him or her. ~~The~~ The bill would establish a fee schedule for the registration activities required by its provisions and would direct that the fees be deposited into the Student Athlete Agent Registration Fund, which would be created by the bill.*

The bill would additionally make a violation of its provisions a misdemeanor offense. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 18895.2 of the Business and Professions*
2 *Code is amended to read:*

3 18895.2. The following definitions govern the construction
4 of this chapter:

5 (a) “Agent contract” means any contract or agreement
6 pursuant to which a person authorizes or empowers an athlete
7 agent to negotiate or solicit on behalf of the person with one or
8 more professional sports teams or organizations for the
9 employment of the person by one or more professional sports
10 teams or organizations, or to negotiate or solicit on behalf of the
11 person for the employment of the person as a professional athlete.

12 (b) (1) “Athlete agent” means any person who, directly or
13 indirectly, recruits or solicits an athlete to enter into any agent
14 contract, endorsement contract, financial services contract, or
15 professional sports services contract, or for compensation
16 procures, offers, promises, attempts, or negotiates to obtain
17 employment for any person with a professional sports team or
18 organization or as a professional athlete.

19 (2) (A) “Athlete agent” does not include a person licensed as
20 an attorney, dealer in securities, financial planner, insurance agent,
21 real estate broker or sales agent, or tax consultant, or other
22 professional person, when the professional person offers or
23 provides the type of services customarily provided by that
24 profession, except and solely to the extent that the professional
25 person also recruits or solicits an athlete to enter into any agent
26 contract, endorsement contract, or professional sports services
27 contract, or for compensation procures, offers, promises, attempts,
28 or negotiates to obtain employment for any person with a
29 professional sports team or organization or as a professional
30 athlete.

31 (B) “Athlete agent” also does not include any person acting
32 solely on behalf of a professional sports team or organization.

33 (C) “Athlete agent” also does not include a talent agency as
34 defined in subdivision (a) of Section 1700.4 of the Labor Code and
35 licensed by the Labor Commissioner pursuant to Chapter 4



1 (commencing with Section 1700) of Part 6 of Division 2 of the
2 Labor Code, except as otherwise provided in this paragraph.
3 “Athlete agent” includes a talent agency that ~~(i) directly or~~
4 ~~indirectly recruits or solicits a student athlete to enter into an agent~~
5 ~~contract, endorsement contract, financial services contract, or~~
6 ~~professional sports services contract, or (ii) for compensation,~~
7 procures, offers, promises, attempts, or negotiates to obtain
8 employment for any person to perform on-field play with a
9 professional sports team or organization.

10 (3) ~~Sections Section 18896.6, 18897.6 and 18897.63 do does~~
11 not apply to an individual acting as an athlete agent solely for his
12 or her spouse, child, foster child, ward, or grandchild.

13 (c) “Employment as a professional athlete” includes
14 employment pursuant to an endorsement contract or a professional
15 sports services contract.

16 (d) “Endorsement contract” means any contract or agreement
17 pursuant to which a person is employed or receives remuneration
18 for any value or utility that the person may have because of
19 publicity, reputation, fame, or following obtained because of
20 athletic ability or performance.

21 (e) “Financial services” means the making or execution of an
22 investment or other financial decision, or counseling as to a
23 financial decision.

24 (f) “Negotiate” includes any contact on behalf of any athlete
25 with a professional sports team or organization or on behalf of any
26 person with any other person who employs or potentially may
27 employ the person as a professional athlete, regardless of whether
28 the contact is made in person, in writing, electronically, through
29 representatives or employees, or in any other manner.
30 “Negotiate” also includes being present during any discussion of
31 an endorsement contract or professional sports services contract
32 with representatives of the professional sports team or
33 organization or potential or actual employer.

34 (g) “Person” means any individual, company, corporation,
35 association, partnership, limited liability company, or their agents
36 or employees.

37 (h) “Professional sports services contract” means any contract
38 or agreement pursuant to which a person is employed or agrees to
39 render services as a player on a professional sports team or
40 organization or as a professional athlete.



1 ~~(i) (1) “Student athlete” means any individual admitted to or~~
2 ~~enrolled as a student, in an elementary or secondary school,~~
3 ~~college, university, or other educational institution if the student~~
4 ~~participates, or has informed the institution of an intention to~~
5 ~~participate, as an athlete in a sports program where the sports~~
6 ~~program is engaged in competition with other educational~~
7 ~~institutions.~~

8 ~~(2) “Student athlete” does not include any person who has~~
9 ~~entered into a valid agent contract, a valid endorsement contract,~~
10 ~~or a valid professional sports services contract. “Student athlete”~~
11 ~~does not include any student of a college or university whose~~
12 ~~eligibility to participate in an intercollegiate sport has terminated,~~
13 ~~as determined by the governing body of the state or national~~
14 ~~association for the promotion and regulation of intercollegiate~~
15 ~~athletics of which the student’s college or university is a member.~~

16 *SEC. 2. Section 18895.3 is added to the Business and*
17 *Professions Code, to read:*

18 *18895.3. This chapter shall not apply to any activity of an*
19 *athlete agent or his or her employee or representative with a*
20 *student athlete, as defined in Section 18901.*

21 *SEC. 3. Section 18896 of the Business and Professions Code*
22 *is amended to read:*

23 18896. To assist enforcement of this chapter, each athlete
24 agent, prior to engaging in or carrying on the business of athlete
25 agent, shall file the following information with the Secretary of
26 State, in the form that the Secretary of State shall prescribe,
27 concerning the athlete agent and each individual acting as an
28 athlete agent within a firm, company, or partnership:

29 (a) The name, residence address, social security number, and
30 driver’s license number.

31 (b) The street and address number of all locations where the
32 business of the athlete agent is to be conducted.

33 (c) The name and business address of a designated agent in
34 California for service of process, as required by Section 18897.83.

35 (d) All businesses or occupations engaged in for the two years
36 immediately preceding the date of filing.

37 (e) Any convictions for any of the following:

38 (1) A felony.

39 (2) A misdemeanor involving a violation of this chapter, or
40 Chapter 1 (commencing with Section 1500) of Part 6 of Division



1 2 of the Labor Code as repealed by Chapter 857 of the Statutes of
2 1996, or the law of any other state governing athlete agents.

3 (3) Fraud, theft, embezzlement, fraudulent conversion, or
4 misappropriation of property.

5 (f) (1) The name of the insurer providing the security required
6 by Section 18897.87, and the amount of that insurance coverage,
7 if the athlete agent provides some or all of that security in the
8 manner required by subdivision (a) of Section 18897.87.

9 (2) The value and specific location of the security required by
10 Section 18897.87, if the athlete agent provides some or all of that
11 security in the manner required by subdivision (b) of Section
12 18897.87.

13 (g) Any appearances before any disciplinary or professional
14 board, association, secretary, committee, or other entity as a result
15 of disciplinary charges or other allegations of misconduct against
16 the athlete agent or individual, and the outcome of those
17 proceedings.

18 ~~(h) Whether or not any student athlete or any educational~~
19 ~~institution has been sanctioned, suspended, or declared ineligible~~
20 ~~to participate in one or more interscholastic or intercollegiate~~
21 ~~athletic events in any proceeding arising from, or related to, the~~
22 ~~actions of the athlete agent.~~

23 ~~(i) All past and present persons on behalf of whom the athlete~~
24 ~~agent or individual has acted as an athlete agent.~~

25 ~~(j)~~

26 (i) The names of any players' associations with whom the
27 athlete agent is registered.

28 ~~(k)~~

29 (j) At least three references.

30 ~~(l)~~

31 (k) Affidavits or certificate or completion of any and all formal
32 training or practical experience in any of the following specific
33 areas: contracts, contract negotiation, complaint resolution,
34 arbitration, or civil resolution of contract disputes.

35 ~~(m)~~

36 (l) The names and residence addresses of all persons financially
37 interested in the operation of the business of the athlete agent,
38 whether as employees, partners, investors, associates, or profit
39 sharers, or in any other manner.

40 ~~(n)~~



1 (m) A schedule of fees to be charged and collected in the
2 conduct of the athlete agent business.

3 *SEC. 4. Section 18896.6 of the Business and Professions Code*
4 *is amended to read:*

5 18896.6. Upon making first contact, direct or indirect, with a
6 professional athlete, ~~a student athlete, a student athlete's spouse,~~
7 ~~parent, foster parent, guardian, sibling, aunt, uncle, grandparent,~~
8 ~~child, or first cousin, any of the preceding persons for whom a~~
9 ~~relationship has been established by marriage, or any person~~
10 ~~residing in the same place as a student athlete, or a representative~~
11 ~~of any of these persons~~ *that person*, an athlete agent, or his or her
12 employee or representative, shall provide that person with a
13 written notification stating: "This athlete agent has current
14 public-disclosure information on file with the California Secretary
15 of State as required by the Miller-Ayala Athlete Agents Act,
16 Chapter 2.5 (commencing with Section 18895) of Division 8 of the
17 Business and Professions Code, which also includes other
18 protections for athletes. Filing of the required information does not
19 imply approval by the California Secretary of State of the
20 competence of the athlete agent." The notification shall also
21 include specific instructions on how to obtain the public disclosure
22 information from the Secretary of State.

23 *SEC. 5. Section 18897.3 of the Business and Professions Code*
24 *is amended to read:*

25 18897.3. If an athlete agent or athlete agent's representative
26 or employee provides financial services to a professional athlete
27 ~~or student athlete~~ or advises the athlete concerning investment of
28 funds, the athlete agent shall disclose to the athlete any ownership
29 interest the athlete agent, representative, or employee has in any
30 entity regarding which the athlete agent, representative, or
31 employee is providing financial services or giving advice, and any
32 commission the athlete agent, representative, or employee will
33 receive from the athlete's investment.

34 *SEC. 6. Article 3 (commencing with Section 18897.6) of*
35 *Chapter 2.5 of Division 8 of the Business and Professions Code is*
36 *repealed.*

37 *SEC. 7. Section 18897.8 of the Business and Professions*
38 *Code, as added by Section 3 of Chapter 858 of the Statutes of 1996,*
39 *is amended to read:*



1 18897.8. (a) Any professional athlete,~~or any student athlete,~~
2 ~~or any elementary or secondary school, college, university, or~~
3 ~~other educational institution,~~ or any league, conference,
4 association, or federation ~~of the preceding educational~~
5 ~~institutions,~~ or any other person may bring a civil action for
6 recovery of damages from an athlete agent, if that professional
7 athlete, ~~that student athlete, that institution,~~ any member of that
8 league, conference, association, or federation, or that other person
9 is adversely affected by the acts of the athlete agent or of the athlete
10 agent's representative or employee in violation of this chapter. ~~A~~
11 ~~student athlete is presumed to be adversely affected by the acts of~~
12 ~~an athlete agent, representative or employee in violation of this~~
13 ~~chapter if, because of those acts, the student athlete is suspended~~
14 ~~or disqualified from participation in one or more interscholastic or~~
15 ~~intercollegiate sports events by or pursuant to the rules of a state~~
16 ~~or national federation or association for the promotion and~~
17 ~~regulation of interscholastic or intercollegiate sports, or suffers~~
18 ~~financial damage, or suffers both suspension or disqualification~~
19 ~~and financial damage. An educational institution is presumed to be~~
20 ~~adversely affected by the acts of an athlete agent or of an athlete~~
21 ~~agent's representative or employee in violation of this chapter if,~~
22 ~~because of those acts, the educational institution, or one or more~~
23 ~~student athletes admitted to or enrolled in the educational~~
24 ~~institution, is suspended or disqualified from participation in one~~
25 ~~or more interscholastic or intercollegiate athletic events by or~~
26 ~~pursuant to the rules of a state or national federation or association~~
27 ~~for the promotion and regulation of interscholastic or~~
28 ~~intercollegiate sports, or suffers financial damage, or suffers both~~
29 ~~suspension or disqualification and financial damage.~~

30 (b) A plaintiff that prevails in a civil action brought under this
31 section may recover actual damages, or fifty thousand dollars
32 (\$50,000), whichever is higher; punitive damages; court costs; and
33 reasonable attorney's fees. ~~An athlete agent found liable under this~~
34 ~~section also shall forfeit any right of repayment for anything of~~
35 ~~benefit or value provided to a student athlete, and shall refund any~~
36 ~~consideration paid to that athlete agent by or on behalf of the~~
37 ~~student athlete.~~

38 (c) It is the intent of the Legislature in enacting this section to
39 encourage enforcement of this chapter through private civil
40 actions.



1 SEC. 8. Section 18897.8 of the Business and Professions
2 Code, as added by Section 2 of Chapter 857 of the Statutes of 1996,
3 is amended to read:

4 18897.8. (a) Any professional athlete, ~~or any student athlete,~~
5 ~~or any elementary or secondary school, college, university, or~~
6 ~~other educational institution,~~ or any league, conference,
7 association, or federation ~~of the preceding educational~~
8 ~~institutions,~~ or any other person may bring a civil action for
9 recovery of damages from an athlete agent, if that professional
10 athlete, ~~that student athlete, that institution,~~ any member of that
11 league, conference, association, or federation, or that other person
12 is adversely affected by the acts of the athlete agent or of the athlete
13 agent's representative or employee in violation of this chapter. ~~A~~
14 ~~student athlete is presumed to be adversely affected by the acts of~~
15 ~~an athlete agent, representative or employee in violation of this~~
16 ~~chapter if, because of those acts, the student athlete is suspended~~
17 ~~or disqualified from participation in one or more interscholastic or~~
18 ~~intercollegiate sports events by or pursuant to the rules of a state~~
19 ~~or national federation or association for the promotion and~~
20 ~~regulation of interscholastic or intercollegiate sports, or suffers~~
21 ~~financial damage, or suffers both suspension or disqualification~~
22 ~~and financial damage. An educational institution is presumed to be~~
23 ~~adversely affected by the acts of an athlete agent or of an athlete~~
24 ~~agent's representative or employee in violation of this chapter if,~~
25 ~~because of those acts, the educational institution, or one or more~~
26 ~~student athletes admitted to or enrolled in the educational~~
27 ~~institution, is suspended or disqualified from participation in one~~
28 ~~or more interscholastic or intercollegiate athletic events by or~~
29 ~~pursuant to the rules of a state or national federation or association~~
30 ~~for the promotion and regulation of interscholastic or~~
31 ~~intercollegiate sports events by or pursuant to the rules of a state~~
32 ~~or national federation or association for the promotion and~~
33 ~~regulation of interscholastic or intercollegiate sports, or suffers~~
34 ~~financial damage, or suffers both suspension or disqualification~~
35 ~~and financial damage.~~

36 (b) A plaintiff that prevails in a civil action brought under this
37 section may recover actual damages, or fifty thousand dollars
38 (\$50,000), whichever is higher; punitive damages; court costs; and
39 reasonable attorney's fees. ~~An athlete agent found liable under this~~
40 ~~section is also subject to forfeiture of any right of repayment for~~



1 ~~anything of benefit or value provided to a student athlete, and shall~~
2 ~~refund any consideration paid to that athlete agent by or on behalf~~
3 ~~of the student athlete.~~

4 (c) It is the intent of the Legislature in enacting this section to
5 encourage enforcement of this chapter through private civil
6 actions.

7 SEC. 9. Chapter 2.6 (commencing with Section 18900) is
8 added to Division 8 of the Business and Professions Code, to read:

9

10 CHAPTER 2.6. UNIFORM ATHLETE AGENTS ACT

11

12 Article 1. General Provisions

13

14 18900. This chapter shall be known and may be cited as the
15 Uniform Athlete Agents Act.

16 18901. The following definitions apply for the purposes of
17 this chapter:

18 (a) "Agency contract" means an agreement in which a student
19 athlete authorizes a person to negotiate or solicit on behalf of the
20 student athlete a professional sports services contract or an
21 endorsement contract.

22 (b) "Athlete agent" means an individual who enters into an
23 agency contract with a student athlete or, directly or indirectly,
24 recruits or solicits a student athlete to enter into an agency contract.
25 The term includes an individual who represents to the public that
26 the individual is an athlete agent. The term does not include a
27 spouse, parent, sibling, grandparent, or guardian of the student
28 athlete or an individual acting solely on behalf of a professional
29 sports team or professional sports organization.

30 (c) "Athletic director" means an individual responsible for
31 administering the overall athletic program of an educational
32 institution or, if an educational institution has separately
33 administered athletic programs for male students and female
34 students, the athletic program for males or the athletic program for
35 females, as appropriate.

36 (d) "Contact" means a communication, direct or indirect,
37 between an athlete agent and a student athlete, to recruit or solicit
38 the student athlete to enter into an agency contract.

39 (e) "Endorsement contract" means an agreement under which
40 a student athlete is employed or receives consideration to use on



1 behalf of the other party any value that the student athlete may have
2 because of publicity, reputation, following, or fame obtained
3 because of athletic ability or performance.

4 (f) “Intercollegiate sport” means a sport played at the
5 collegiate level for which eligibility requirements for participation
6 by a student athlete are established by a national association for the
7 promotion or regulation of collegiate athletics.

8 (g) “Person” means an individual, corporation, business trust,
9 estate, trust, partnership, limited liability company, association,
10 joint venture, government, governmental subdivision, agency, or
11 instrumentality, public corporation, or any other legal or
12 commercial entity.

13 (h) “Professional sports services contract” means an
14 agreement under which an individual is employed, or agrees to
15 render services, as a player on a professional sports team, with a
16 professional sports organization, or as a professional athlete.

17 (i) “Record” means information that is inscribed on a tangible
18 medium or that is stored in an electronic or other medium and is
19 retrievable in perceivable form.

20 (j) “Registration” means registration as an athlete agent
21 pursuant to this chapter.

22 (k) “State” means a State of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or any
24 territory or insular possession subject to the jurisdiction of the
25 United States.

26 (l) “Student athlete” means an individual who engages in, is
27 eligible to engage in, or may be eligible in the future to engage in,
28 any intercollegiate sport. If an individual is permanently ineligible
29 to participate in a particular intercollegiate sport, the individual is
30 not a student athlete for purposes of that sport.

31

32 Article 2. Registration of Athlete Agents

33

34 18910. (a) Except as otherwise provided in subdivision (b),
35 an individual may not act as an athlete agent in this state without
36 holding a certificate of registration under Section 18912 or 18914.

37 (b) Before being issued a certificate of registration, an
38 individual may act as an athlete agent in this state for all purposes
39 except signing an agency contract, if a student athlete or another
40 person acting on behalf of the student athlete initiates



1 communication with the individual, and within seven days after an
2 initial act as an athlete agent, the individual submits an application
3 for registration as an athlete agent in this state.

4 (c) An agency contract resulting from conduct in violation of
5 this section is void, and the athlete agent shall return any
6 consideration received under the contract.

7 18911. (a) An applicant for registration shall submit an
8 application for registration to the Secretary of State in a form
9 prescribed by the Secretary of State. The application shall be in the
10 name of an individual and, except as otherwise provided in
11 subdivision (b), signed or otherwise authenticated by the applicant
12 under penalty of perjury and state or contain the following
13 information:

14 (1) The name of the applicant and the address of the applicant's
15 principal place of business.

16 (2) The name of the applicant's business or employer, if
17 applicable.

18 (3) Any business or occupation engaged in by the applicant for
19 the five years next preceding the date of submission of the
20 application.

21 (4) A description of the applicant's formal training and
22 practical experience as an athlete agent and a description of the
23 applicant's educational background relating to his or her activities
24 as an athlete agent.

25 (5) The names and addresses of three individuals not related to
26 the applicant who are willing to serve as references.

27 (6) The name, sport, and last known team for each individual
28 for whom the applicant acted as an athlete agent during the five
29 years next preceding the date of submission of the application.

30 (7) If a corporation is employing the athlete agent, the names
31 and addresses of all persons who are officers or directors, and the
32 name and address of any shareholder of the corporation having an
33 interest of 5 percent or greater.

34 (8) If the athlete agent's business is other than a corporation, the
35 names and addresses of all persons who are the partners, members,
36 officers, managers, associates, or profit sharers of the business.

37 (9) Whether the applicant or any person named pursuant to
38 paragraph (7) or (8) has been convicted of a crime that, if
39 committed in this state, would be a crime involving moral
40 turpitude or a felony, and identify the crime.



1 (10) Whether there has been any administrative or judicial
2 determination that the applicant or any person named pursuant to
3 paragraph (7) or (8) has made a false, misleading, deceptive, or
4 fraudulent representation.

5 (11) Any instance in which the conduct of the applicant or any
6 person named pursuant to paragraph (7) or (8) resulted in the
7 imposition of a sanction, suspension, or declaration of ineligibility
8 to participate in an interscholastic or intercollegiate athletic event
9 on a student athlete or educational institution.

10 (12) Any sanction, suspension, or disciplinary action taken
11 against the applicant or any person named pursuant to paragraph
12 (7) or (8) arising out of occupational or professional conduct.

13 (13) Whether there has been any denial of an application for,
14 suspension or revocation of, or refusal to renew, the registration or
15 licensure of the applicant or any person named pursuant to
16 paragraph (7) or (8) as an athlete agent in any state.

17 (b) An individual who has submitted an application for, and
18 holds a certificate of, registration or licensure as an athlete agent
19 in another state, may submit a copy of the application and
20 certificate in lieu of submitting an application in the form
21 prescribed pursuant to subdivision (a). The Secretary of State shall
22 accept the application and the certificate from the other state as an
23 application for registration in this state if the application to the
24 other state meets the following criteria:

25 (1) It was submitted in the other state within six months next
26 preceding the submission of the application in this state, and the
27 applicant certifies that the information contained in the application
28 is current.

29 (2) It contains information substantially similar to or more
30 comprehensive than that required in an application submitted in
31 this state.

32 (3) It was signed by the applicant under penalty of perjury.

33 18912. (a) Except as otherwise provided in subdivision (b),
34 the Secretary of State shall issue a certificate of registration to an
35 individual who complies with subdivision (a) of Section 18911 or
36 whose application has been accepted under subdivision (b) of
37 Section 18911.

38 (b) The Secretary of State may refuse to issue a certificate of
39 registration if the Secretary of State determines that the applicant
40 has engaged in conduct that has a significant adverse effect on the



1 applicant's fitness to act as an athlete agent. In making the
2 determination, the Secretary of State may consider whether the
3 applicant has:

4 (1) Been convicted of a crime that, if committed in this state,
5 would be a crime involving moral turpitude or a felony.

6 (2) Made a materially false, misleading, deceptive, or
7 fraudulent representation in the application or as an athlete agent.

8 (3) Engaged in conduct that would disqualify the applicant
9 from serving in a fiduciary capacity.

10 (4) Engaged in conduct prohibited by Section 18930.

11 (5) Had a registration or licensure as an athlete agent
12 suspended, revoked, or denied or been refused renewal of
13 registration or licensure as an athlete agent in any state.

14 (6) Engaged in conduct the consequence of which was that a
15 sanction, suspension, or declaration of ineligibility to participate
16 in an interscholastic or intercollegiate athletic event was imposed
17 on a student athlete or educational institution.

18 (7) Engaged in conduct that significantly adversely reflects on
19 the applicant's credibility, honesty, or integrity.

20 (c) In making a determination under subdivision (b), the
21 Secretary of State shall consider how recently the conduct
22 occurred, the nature of the conduct and the context in which it
23 occurred, and any other relevant conduct of the applicant.

24 (d) The term of a certificate of registration is two years from the
25 date of its issuance.

26 18913. (a) An athlete agent may apply to renew a registration
27 by submitting an application for renewal in a form prescribed by
28 the Secretary of State. The application for renewal shall be signed
29 by the applicant under penalty of perjury and contain current
30 information on all matters required in an original registration.

31 (b) An individual who has submitted an application for renewal
32 of registration or licensure in another state, in lieu of submitting
33 an application for renewal in the form prescribed pursuant to
34 subdivision (a), may file a copy of the application for renewal and
35 a valid certificate of registration or licensure from the other state.
36 The Secretary of State shall accept the application for renewal
37 from the other state as an application for renewal in this state if the
38 application to the other state ~~if it~~ meets the following criteria:



1 (1) It was submitted in the other state within six months next
2 preceding the filing in this state, and the applicant certifies the
3 information contained in the application for renewal is current.

4 (2) It contains information substantially similar to or more
5 comprehensive than that required in an application for renewal
6 submitted in this state.

7 (3) It was signed by the applicant under penalty of perjury.

8 (c) The term of the renewal of a certificate of registration is two
9 years from the date of its renewal.

10 18914. The Secretary of State may issue a temporary
11 certificate of registration while an application for registration or
12 renewal ~~or~~ of registration is pending.

13 18915. An application for a certificate of registration and an
14 application for renewal of a certificate of registration are public
15 records for the purposes of the California Public Records Act
16 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
17 Title 1 of the Government Code).

18 18916. (a) The Secretary of State may suspend, revoke, or
19 refuse to renew a registration for conduct that would have justified
20 denial of registration under subdivision (b) of Section 18912.

21 (b) The Secretary of State may deny, suspend, revoke, or refuse
22 to renew a certificate of registration or licensure only after proper
23 notice and an opportunity for a hearing. The proceedings under
24 this subdivision shall be conducted in accordance with Chapter 5
25 (commencing with Section 11500) of Part 1 of Division 3 of Title
26 2 of the Government Code.

27

28 Article 3. Agency Contracts

29

30 18920. (a) An agency contract shall be in a record, signed or
31 otherwise authenticated by the parties.

32 (b) An agency contract shall state or contain the following:

33 (1) The amount and method of calculating the consideration to
34 be paid by the student athlete for services to be provided by the
35 athlete agent under the contract and any other consideration the
36 athlete agent has received or will receive from any other source for
37 entering into the contract or for providing the services.

38 (2) The name of any person not listed in the application for
39 registration or renewal of registration who will be compensated
40 because the student athlete signed the agency contract.



1 (3) A description of any expenses that the student athlete agrees
2 to reimburse.

3 (4) A description of the services to be provided to the student
4 athlete.

5 (5) The duration of the contract.

6 (6) The date of execution.

7 (c) An agency contract shall contain, in close proximity to the
8 signature of the student athlete, a conspicuous notice in boldface
9 type in capital letters stating the following:

10

11 “WARNING TO STUDENT ATHLETE IF YOU SIGN THIS
12 CONTRACT:

13

14 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE
15 AS A STUDENT ATHLETE IN YOUR SPORT.

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

20 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14
21 DAYS AFTER SIGNING IT. CANCELLATION OF THIS
22 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.”

23 (d) An agency contract that does not conform to this section is
24 voidable by the student athlete. If a student athlete voids an agency
25 contract, the student athlete is not required to pay any
26 consideration under the contract or to return any consideration
27 received from the athlete agent to induce the student athlete to
28 enter into the contract.

29 (e) The athlete agent shall give a record of the signed or
30 otherwise authenticated agency contract to the student athlete at
31 the time of execution.

32 18921. (a) Within 72 hours after entering into an agency
33 contract or before the next scheduled athletic event in which the
34 student athlete may participate, whichever occurs first, the athlete
35 agent shall give notice in a record of the existence of the contract
36 to the athletic director of the educational institution at which the
37 student athlete is enrolled or the athlete agent has reasonable
38 grounds to believe the student athlete intends to enroll.

39 (b) Within 72 hours after entering into an agency contract or
40 before the next athletic event in which the student athlete may



1 participate, whichever occurs first, the student athlete shall inform
2 the athletic director of the educational institution at which the
3 student athlete is enrolled that he or she has entered into an agency
4 contract.

5 18922. (a) A student athlete may cancel an agency contract
6 by giving notice of the cancellation to the athlete agent in a record
7 within 14 days after the contract is signed.

8 (b) A student athlete may not waive the right to cancel an
9 agency contract.

10 (c) If a student athlete cancels an agency contract, the student
11 athlete is not required to pay any consideration under the contract
12 or to return any consideration received from the athlete agent to
13 induce the student athlete to enter into the contract.

14

15 Article 4. Offenses and Enforcement

16

17 18930. (a) An athlete agent, with the intent to induce a
18 student athlete to enter into an agency contract, may not engage in
19 any of the following conduct:

20 (1) Give any materially false or misleading information or
21 make a materially false promise or representation.

22 (2) Furnish anything of value to a student athlete before the
23 student athlete enters into the agency contract.

24 (3) Furnish anything of value to any individual other than the
25 student athlete or another registered athlete agent.

26 (b) An athlete agent may not intentionally engage in any of the
27 following conduct:

28 (1) Initiate contact with a student athlete unless registered
29 under this chapter.

30 (2) Refuse or fail to retain or permit inspection of the records
31 required to be retained by Section 18950.

32 (3) Fail to register when required by Section 18910.

33 (4) Provide materially false or misleading information in an
34 application for registration or renewal of registration.

35 (5) Predate or postdate an agency contract.

36 (6) Fail to notify a student athlete before the student athlete
37 signs or otherwise authenticates an agency contract for a particular
38 sport that the signing or authentication may make the student
39 athlete ineligible to participate as a student athlete in that sport.



1 18931. An athlete agent who violates Section 18930 is guilty
2 of a misdemeanor.

3 18932. (a) An educational institution has a right of action
4 against an athlete agent or a former student athlete for damages
5 caused by a violation of this chapter. In an action under this section,
6 the court may award to the prevailing party costs and reasonable
7 attorney’s fees.

8 (b) Damages of an educational institution under subdivision (a)
9 include losses and expenses incurred because, as a result of the
10 conduct of an athlete agent or former student athlete, the
11 educational institution was injured by a violation of this chapter or
12 was penalized, disqualified, or suspended from participation in
13 athletics by a national association for the promotion and regulation
14 of athletics, by an athletic conference, or by reasonable
15 self-imposed disciplinary action taken to mitigate sanctions likely
16 to be imposed by such an organization.

17 (c) A right of action under this section does not accrue until the
18 educational institution discovers or by the exercise of reasonable
19 diligence would have discovered the violation by the athlete agent
20 or former student athlete.

21 (d) Any liability of the athlete agent or the former student
22 athlete under this section is several and not joint.

23 (e) This chapter does not restrict rights, remedies, or defenses
24 of any person under law or equity.

25 18933. The Secretary of State may assess a civil penalty
26 against an athlete agent not to exceed twenty-five thousand dollars
27 (\$25,000) for a violation of this chapter. The provisions of
28 paragraphs (1), (2), (4), and (5) of subdivision (b) of Section 125.9
29 apply to the assessment of a civil penalty made under this section.
30

31 Article 5. Revenue

32
33 18940. (a) An application for registration or renewal of
34 registration shall be accompanied by a fee in the following
35 amount:

36 ~~(a) _____~~
37 (1) *Five hundred* dollars (~~\$_____~~) (*\$500*) for an initial
38 application for registration.

39 ~~(b) _____~~



1 (2) *Four hundred* dollars (~~\$~~) (\$400) for an application for
2 registration based upon a certificate of registration or licensure
3 issued by another state.

4 (~~e~~)

5 (3) *Five hundred* dollars (~~\$~~) (\$500) for an application for
6 renewal of registration.

7 (~~d~~)

8 (4) *Four hundred* dollars (~~\$~~) (\$400) for an application for
9 renewal of registration based upon an application for renewal of
10 registration or licensure submitted in another state.

11 (b) *The Secretary of State may by regulation adjust the amount*
12 *of any fee specified in subdivision (a) if required to reflect the*
13 *actual costs incurred in administering the provisions of this*
14 *chapter.*

15 18941. All fees collected pursuant to Section 18940 and all
16 civil penalties collected pursuant to Section 18933 shall be
17 deposited into the ~~_____~~ *Student Athlete Agent Registration Fund*,
18 which is hereby created.

19
20 Article 6. Miscellaneous

21
22 18950. (a) An athlete agent shall retain the following records
23 for a period of five years:

24 (1) The name and address of each individual represented by the
25 athlete agent.

26 (2) Any agency contract entered into by the athlete agent.

27 (3) Any direct costs incurred by the athlete agent in the
28 recruitment or solicitation of a student athlete to enter into an
29 agency contract.

30 (b) Records required by subdivision (a) to be retained are open
31 to inspection by the Secretary of State during normal business
32 hours.

33 18951. By acting as an athlete agent in this state, a nonresident
34 individual appoints the Secretary of State as the individual's agent
35 for service of process in any civil action in this state related to the
36 individual's acting as an athlete agent in this state.

37 18952. The Secretary of State may issue subpoenas for any
38 material that is relevant to the administration of this chapter.

39 18953. The provisions of this chapter governing the legal
40 effect, validity, or enforceability of electronic records or

1 signatures, and of contracts formed or performed with the use of
2 those records or signatures conform to the requirements of Section
3 102 of the Electronic Signatures in Global and National
4 Commerce Act (15 U.S.C. Sec. 7001 et seq.) and supersede,
5 modify, and limit the Electronic Signatures in Global and National
6 Commerce Act.

7 18954. The provisions of this chapter are taken from the
8 Uniform Athletes Act of 2000, drafted by the National Conference
9 of Commissioners on Uniform State Laws. In applying and
10 construing the provisions of this chapter, consideration shall be
11 given to the need to promote uniformity of the law with respect to
12 its subject matter among states that enact it.

13 18955. The provisions of this chapter are severable. If any
14 provision of this chapter or its application is held invalid, that
15 invalidity shall not affect other provisions or applications that can
16 be given effect without the invalid provision or application.

17 ~~SEC. 2.~~

18 *SEC. 10.* No reimbursement is required by this act pursuant
19 to Section 6 of Article XIII B of the California Constitution
20 because the only costs that may be incurred by a local agency or
21 school district will be incurred because this act creates a new crime
22 or infraction, eliminates a crime or infraction, or changes the
23 penalty for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition of a
25 crime within the meaning of Section 6 of Article XIII B of the
26 California Constitution.

