

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 164, Page 162, Section 346.105, Line 56,
2 by inserting after all of said section and line the following:

3
4 "436.218. As used in sections 436.215 to 436.272, the following terms mean:

5 (1) "Agency contract", an agreement in which a student athlete authorizes a person to
6 negotiate or solicit on behalf of the student athlete a professional sports services contract or an
7 endorsement contract;

8 (2) "Athlete agent" ~~[- an individual who enters into an agency contract with a student athlete~~
9 ~~or directly or indirectly recruits or solicits a student athlete to enter into an agency contract. The~~
10 ~~term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an~~
11 ~~individual acting solely on behalf of a professional sports team or professional sports organization.~~
12 ~~The term includes an individual who represents to the public that the individual is an athlete agent] :~~

13 (a) A person, whether or not registered under sections 436.215 to 436.272, who:

14 a. Directly or indirectly recruits or solicits a student athlete to enter into an agency contract
15 or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain
16 employment for a student athlete as a professional athlete or member of a professional sports team
17 or organization;

18 b. For compensation or in anticipation of compensation related to a student athlete's
19 participation in athletics:

20 (i) Serves the student athlete in an advisory capacity on a matter related to finances,
21 business pursuits, or career management decisions, unless the person is an employee of an
22 educational institution acting exclusively as an employee of the institution for the benefit of the
23 institution; or

24 (ii) Manages the business affairs of the student athlete by providing assistance with bills,
25 payments, contracts, or taxes; or

26 c. In anticipation of representing a student athlete for a purpose related to the student
27 athlete's participation in athletics:

28 (i) Gives consideration to the student athlete or another person;

29 (ii) Serves the student athlete in an advisory capacity on a matter related to finances,
30 business pursuits, or career management decisions; or

31 (iii) Manages the business affairs of the student athlete by providing assistance with bills,
32 payments, contracts, or taxes;

33 (b) "Athlete agent" does not include a person who:

34 a. Acts solely on behalf of a professional sports team or organization; or

35 b. Is a licensed, registered, or certified professional and offers or provides services to a
36 student athlete customarily provided by members of the profession, unless the person:

Action Taken _____ Date _____

- 1 (i) Recruits or solicits the student athlete to enter into an agency contract;
2 (ii) For compensation, procures employment or offers, promises, attempts, or negotiates to
3 obtain employment for the student athlete as a professional athlete or member of a professional
4 sports team or organization; or
5 (iii) Receives consideration for providing the services calculated using a different method
6 than for a person who is not a student athlete;
7 (3) "Athletic director", ~~[an individual]~~ a person responsible for administering the overall
8 athletic program of an educational institution or, if an educational institution has separately
9 administered athletic programs for male students and female students, the athletic program for males
10 or the athletic program for females, as appropriate;
11 (4) ~~["Contact", a direct or indirect communication between an athlete agent and a student~~
12 ~~athlete to recruit or solicit the student athlete to enter into an agency contract;~~
13 ~~—(5)] "Director", the director of the division of professional registration;~~
14 ~~[(6)] (5) "Division", the division of professional registration;~~
15 (6) "Educational institution", includes a public or private elementary school, secondary
16 school, technical or vocational school, community college, college, or university;
17 (7) "Endorsement contract", an agreement under which a student athlete is employed or
18 receives consideration to use on behalf of the other party any value that the student athlete may have
19 because of publicity, reputation, following, or fame obtained because of athletic ability or
20 performance;
21 (8) "Enrolled" or "enrolls", who registered or registers for courses at an educational
22 institution and attending or planning to attend athletic practice or class;
23 (9) "Intercollegiate sport", a sport played at the collegiate level for which eligibility
24 requirements for participation by a student athlete are established by a national association for the
25 promotion or regulation of collegiate athletics;
26 (10) "Interscholastic sport", a sport played between educational institutions that are not
27 community colleges, colleges, or universities;
28 (11) "Licensed, registered, or certified professional", a person licensed, registered, or
29 certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or
30 sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent,
31 who is licensed, registered, or certified by the state or a nationally recognized organization that
32 licenses, registers, or certifies members of the profession on the basis of experience, education, or
33 testing;
34 ~~[(9)] (12) "Person", an individual, corporation, business trust, estate, trust, partnership,~~
35 ~~limited liability company, association, joint venture, government, governmental subdivision, agency,~~
36 ~~or instrumentality, public corporation, or any other legal or commercial entity;~~
37 ~~[(10)] (13) "Professional sports services contract", an agreement under which an individual~~
38 ~~is employed [or] as a professional athlete and agrees to render services as a player on a professional~~
39 ~~sports team[, or with a professional sports organization[, or as a professional athlete];~~
40 ~~[(11)] (14) "Record", information that is inscribed on a tangible medium or that is stored in~~
41 ~~an electronic or other medium and is retrievable in perceivable form;~~
42 (15) "Recruit or solicit", attempt to influence the choice of an athlete agent by a student
43 athlete or, if the student athlete is a minor, a parent or guardian of the student athlete. The term does
44 not include giving advice on the selection of a particular agent in a family, coaching, or social
45 situation unless the person giving the advice does so because of the receipt or anticipated receipt of
46 an economic benefit, directly or indirectly, from the agent;
47 ~~[(12)] (16) "Registration", registration as an athlete agent under sections 436.215 to~~
48 ~~436.272;~~
49 (17) "Sign", with present intent to authenticate or adopt a record;

1 (a) To execute or adopt a tangible symbol; or
 2 (b) To attach to or logically associate with the record an electronic symbol, sound, or
 3 process;

4 ~~[(13)]~~ (18) "State", a state of the United States, the District of Columbia, Puerto Rico, the
 5 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the
 6 United States;

7 ~~[(14)]~~ (19) "Student athlete", ~~[a current student who engages in, has engaged in, is eligible~~
 8 ~~to engage in, or may be eligible in the future to engage in, any intercollegiate sport]~~ a person who is
 9 eligible to attend an educational institution and engages in, is eligible to engage in, or may be
 10 eligible in the future to engage in any interscholastic or intercollegiate sport. The term does not
 11 include a person permanently ineligible to participate in a particular interscholastic or intercollegiate
 12 sport for that sport.

13 436.221. 1. The director shall administer the provisions of sections 436.215 to 436.272.

14 2. By engaging in the business of an athlete agent in this state, a nonresident ~~[individual]~~
 15 person appoints the director as the ~~[individual's]~~ person's agent to accept service of process in any
 16 civil action related to the ~~[individual's]~~ person's business as an athlete agent in this state.

17 3. The director may subpoena witnesses, issue subpoenas duces tecum and require
 18 production of documents and records. Subpoenas including subpoenas duces tecum shall be served
 19 by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a
 20 person to produce original documents in response to a subpoena duces tecum, the board may require
 21 sworn copies of such documents to be filed with it or delivered to its designated representative.

22 4. The director may enforce its subpoenas including subpoenas duces tecum by applying to
 23 a circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county
 24 where the person resides or may be found for an order upon any person who shall fail to obey a
 25 subpoena to show cause why such subpoena should not be enforced, which such order and a copy of
 26 the application therefor shall be served upon the person in the same manner as a summons in a civil
 27 action and if the circuit court shall after a hearing determine that the subpoena should be sustained
 28 and enforced such court shall proceed to enforce the subpoena in the same manner as though the
 29 subpoena had been issued in a civil case in the circuit court.

30 436.224. 1. Except as otherwise provided in subsection 2 of this section, an ~~[individual]~~ a
 31 person may not act as an athlete agent in this state ~~[before]~~ without being issued a certificate of
 32 registration under section 436.230 or 436.236.

33 2. ~~[An individual with a temporary license]~~ Before being issued a certificate of registration
 34 under section 436.236, a person may act as an athlete agent ~~[before being issued a certificate of~~
 35 ~~registration]~~ for all purposes except signing an agency contract if:

36 (1) A student athlete or another acting on behalf of the student athlete initiates
 37 communication with the ~~[individual]~~ person; and

38 (2) Within seven days after an initial act ~~[as an athlete agent]~~ that requires the person to
 39 register as an athlete agent, the ~~[individual]~~ person submits an application to register as an athlete
 40 agent in this state.

41 3. An agency contract resulting from conduct in violation of this section is void. The athlete
 42 agent shall return any consideration received under the contract.

43 436.227. 1. An applicant for registration shall submit an application for registration to the
 44 director in a form prescribed by the director. The application ~~[must]~~ shall be in the name of an
 45 individual and signed by the applicant under penalty of perjury and ~~[must]~~ shall state or contain at
 46 least the following:

47 (1) The name, date of birth, and place of birth of the applicant [and] ;

48 (2) The address and telephone numbers of the applicant's principal place of business;

49 (3) The applicant's mobile telephone numbers and any means of communicating

electronically, including a facsimile number, email address, and personal and business or employer websites, as applicable;

~~[(2)]~~ (4) The name of the applicant's business or employer, if applicable, including for each business or employer, the mailing address, telephone number, organization form, and the nature of the business;

(5) Each social media account with which the applicant or the applicant's business or employer is affiliated;

~~[(3)]~~ (6) Any business or occupation engaged in by the applicant for the five years ~~[next]~~ preceding the date of submission of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

~~[(4)]~~ (7) A description of the applicant's:

(a) Formal training as an athlete agent;

(b) Practical experience as an athlete agent; and

(c) Educational background relating to the applicant's activities as an athlete agent;

~~[(5)]~~ The names and addresses of three individuals not related to the applicant who are willing to serve as references;

~~_____ [(6)]~~ (8) The name~~[], sport, and last known team for each individual]~~ of each student athlete for whom the applicant ~~[provided services]~~ acted as an athlete agent during the five years ~~[next]~~ preceding the date of submission of the application or, if the student athlete is a minor, the name of the parent or guardian of the minor, together with the student athlete's sport and last known team;

~~[(7)]~~ (9) The names and addresses of all persons who are:

(a) With respect to the athlete agent's business if it is not a corporation, the partners, officers, managers, associates, or profit-sharers, or persons who directly or indirectly hold an equity interest of five percent or greater; and

(b) With respect to a corporation employing the ~~[athlete agent]~~ applicant, the officers, directors, and any shareholder of the corporation with a five percent or greater interest;

(10) A description of the status of any application by the applicant, or any person named under subdivision (9) of this subsection, for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

~~[(8)]~~ (11) Whether the applicant or any other person named under subdivision ~~[(7)]~~ (9) of this section has ~~[been convicted]~~ pled or been found guilty of a crime that if committed in this state would be a felony or other crime involving moral turpitude, and ~~[a description of]~~ information regarding the crime, including the crime, the law enforcement agency involved, and, if applicable the date of the verdict and the penalty imposed;

(12) Whether, within fifteen years before the date of application, the applicant or any person named under subdivision (9) of this subsection has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full explanation of each proceeding;

(13) Whether the applicant or any person named under subdivision (9) of this subsection has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current on the date of the application;

(14) Whether, within ten years before the date of application, the applicant or any person named under subdivision (9) of this subsection was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

~~[(9)]~~ (15) Whether there has been any administrative or judicial determination that the applicant or any other person named under subdivision ~~[(7)]~~ (9) of this section has made a false,

misleading, deceptive, or fraudulent representation;

~~[(10)]~~ (16) Any instance in which the prior conduct of the applicant or any other person named under subdivision ~~[(7)]~~ (9) of this section resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution;

~~[(11)]~~ (17) Any sanction, suspension, or disciplinary action taken against the applicant or any other person named under subdivision ~~[(7)]~~ (9) of this section arising out of occupational or professional conduct; ~~[and]~~

~~[(12)]~~ (18) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or any other person named under subdivision ~~[(7)]~~ (9) of this section as an athlete agent in any state;

(19) Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

(20) If the applicant is certified or registered by a professional league or players association:

(a) The name of the league or association;

(b) The date of certification or registration, and the date of expiration of the certification or registration, if any; and

(c) If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

(21) Any additional information as required by the director.

2. In lieu of submitting the application and information required under subsection 1 of this section, an applicant who is registered as an athlete agent in another state may apply for registration as an athlete agent by submitting the following:

(1) A copy of the application for registration in the other state;

(2) A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and

(3) A copy of the certificate of registration from the other state.

3. The director shall issue a certificate of registration to an applicant who applies for registration under subsection 2 of this section if the director determines:

(1) The application and registration requirements of the other state are substantially similar to or more restrictive than the requirements provided under sections 436.215 to 436.272; and

(2) The registration has not been revoked or suspended and no action involving the applicant's conduct as an athlete agent is pending against the applicant or the applicant's registration in any state.

4. For purposes of implementing subsection 3 of this section, the director shall:

(1) Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than sections 436.215 to 436.272; and

(2) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies."; and

Further amend said bill, Page 163, Section 436.230, Line 34, by inserting after the number "5." the following:

"An athlete agent registered under subsection 3 of section 436.227 may renew the registration by proceeding under subsection 4 of this section or, if the registration in the other state has been renewed, by submitting to the director copies of the application for renewal in the other state and the renewed registration from the other state. The director shall renew the registration if

1 the director determines:

2 (1) The registration requirements of the other state are substantially similar to or more
 3 restrictive than the requirements provided under sections 436.215 to 436.272; and

4 (2) The renewed registration has not been suspended or revoked and no action involving the
 5 individual's conduct as an athlete agent is pending against the individual or the individual's
 6 registration in any state.

7 6. "; and

8
 9 Further amend said bill, page, section and line, by inserting after all of said section and line the
 10 following:

11
 12 "436.236. The director may issue a temporary certificate of registration [~~valid for sixty~~
 13 ~~days~~] while an application for registration or renewal is pending.

14 436.242. 1. An agency contract [~~must~~] shall be in a record signed by the parties.

15 2. An agency contract [~~must~~] shall state or contain:

16 (1) A statement that the athlete agent is registered as an athlete agent in this state and a list
 17 of any other states in which the agent is registered as an athlete agent;

18 (2) The amount and method of calculating the consideration to be paid by the student athlete
 19 for services to be provided by the athlete agent under the contract and any other consideration the
 20 athlete agent has received or will receive from any other source for entering into the contract or for
 21 providing the services;

22 [~~(2)~~] (3) The name of any person not listed in the application for registration or renewal who
 23 will be compensated because the student athlete signed the agency contract;

24 [~~(3)~~] (4) A description of any expenses that the student athlete agrees to reimburse;

25 [~~(4)~~] (5) A description of the services to be provided to the student athlete;

26 [~~(5)~~] (6) The duration of the contract; and

27 [~~(6)~~] (7) The date of execution.

28 3. An agency contract shall contain in close proximity to the signature of the student athlete
 29 a conspicuous notice in boldface type in capital letters stating:

30 "WARNING TO STUDENT ATHLETE IF YOU SIGN THIS CONTRACT:

31 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE
 32 IN YOUR SPORT;

33 (2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR
 34 ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS
 35 AFTER ENTERING INTO AN AGENCY CONTRACT OR BEFORE THE NEXT ATHLETIC
 36 EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST AND PROVIDE THE
 37 NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

38 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.
 39 CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."

40 4. An agency contract shall be accompanied by a separate record signed by the student
 41 athlete or, if the student athlete is a minor, the parent or guardian of the student athlete
 42 acknowledging that signing the contract may result in the loss of the student athlete's eligibility to
 43 participate in the student athlete's sport.

44 5. An agency contract that does not conform to this section is voidable by the student athlete
 45 or, if the student athlete is a minor, by the parent or guardian of the student athlete. If the contract is
 46 voided, any consideration received by the student athlete from the athlete agent under the contract to
 47 induce entering into the contract is not required to be returned.

48 [~~5.~~] 6. The athlete agent shall give a copy of the signed agency contract to the student
 49 athlete or, if the student athlete is a minor, to the parent or guardian of the student athlete [at the time

1 of signing].

2 7. If a student athlete is a minor, an agency contract shall be signed by the parent or
 3 guardian of the minor, and the notice required by subsection 3 of this section shall be revised
 4 accordingly.

5 436.245. 1. As used in this section, "communicating or attempting to communicate" shall
 6 mean contacting or attempting to contact by an in-person meeting, a record, or any other method
 7 that conveys or attempts to convey a message.

8 2. Within seventy-two hours after entering into an agency contract or before the next
 9 scheduled athletic event in which the student athlete may participate, whichever occurs first, the
 10 athlete agent shall give notice in [writing] a record of the existence of the contract to the athletic
 11 director of the educational institution at which the student athlete is enrolled or the athlete agent has
 12 reasonable grounds to believe the student athlete intends to enroll.

13 3. If an athlete agent enters into an agency contract with a student athlete and the student
 14 athlete subsequently enrolls at an educational institution, the athlete agent shall notify the athletic
 15 director of the educational institution of the existence of the contract within seventy-two hours after
 16 the agent knows or should have known the student athlete enrolled.

17 4. If an athlete agent has a relationship with a student athlete before the student athlete
 18 enrolls in an educational institution and receives an athletic scholarship from the educational
 19 institution, the athlete agent shall notify the athletic director of the educational institution of the
 20 relationship no later than ten days after the enrollment if the athlete agent knows or should have
 21 known of the enrollment and:

22 (1) The relationship was motivated in whole or in part by the intention of the athlete agent
 23 to recruit or solicit the student athlete to enter an agency contract in the future; or

24 (2) The athlete agent directly or indirectly recruited or solicited the student athlete to enter
 25 an agency contract before the enrollment.

26 5. An athlete agent shall give notice in a record to the athletic director of any educational
 27 institution at which a student athlete is enrolled before the agent communicates or attempts to
 28 communicate with:

29 (1) The student athlete or, if the student athlete is a minor, a parent or guardian of the
 30 student athlete to influence the student athlete or parent or guardian to enter into an agency contract;
 31 or

32 (2) Another person to have that person influence the student athlete or, if the student athlete
 33 is a minor, the parent or guardian of the student athlete to enter into an agency contract.

34 6. If a communication or attempt to communicate with an athlete agent is initiated by a
 35 student athlete or another person on behalf of the student athlete, the athlete agent shall notify in a
 36 record the athletic director of any educational institution at which the student athlete is enrolled.
 37 The notification shall be made not later than ten days after the communication or attempted
 38 communication.

39 7. An educational institution that becomes aware of a violation of sections 436.215 to
 40 436.272 by an athlete agent shall notify the director of the violation and any professional league or
 41 players association with which the educational institution is aware the agent is licensed or
 42 registered.

43 [2-] 8. Within seventy-two hours after entering into an agency contract or before the next
 44 athletic event in which the student athlete may participate, whichever occurs first, the student athlete
 45 shall in [writing] a record inform the athletic director of the educational institution at which the
 46 student athlete is enrolled that he or she has entered into an agency contract and the name and
 47 contact information of the athlete agent.

48 436.248. 1. A student athlete or, if the student athlete is a minor, the parent or guardian of
 49 the student athlete may cancel an agency contract by giving notice in writing to the athlete agent of

1 the cancellation within fourteen days after the contract is signed.

2 2. A student athlete or, if the student athlete is a minor, the parent or guardian of the student
3 athlete may not waive the right to cancel an agency contract.

4 3. If a student athlete, parent, or guardian cancels an agency contract within fourteen days of
5 signing the contract, the student athlete, parent, or guardian is not required to pay any consideration
6 under the contract or to return any consideration received from the agent to induce the student
7 athlete agent to enter into the contract.

8 436.254. 1. An athlete agent ~~[may]~~ shall not do any of the following with the intent to
9 induce a student athlete to enter into an agency contract or encourage any other person to take or
10 assist any other person in taking any of the following actions on behalf of the athlete agent:

11 (1) Give any materially false or misleading information or make a materially false promise
12 or representation;

13 (2) Furnish anything of value to a student athlete before the student athlete enters into the
14 agency contract; or

15 (3) Furnish anything of value to any ~~[individual]~~ person other than the student athlete or
16 another registered athlete agent.

17 2. An athlete agent ~~[may]~~ shall not intentionally do any of the following or encourage any
18 other person to do any of the following:

19 (1) Initiate contact, directly or indirectly, with a student athlete or, if the student athlete is a
20 minor, a parent or guardian of the student athlete to recruit or solicit the student athlete, parent, or
21 guardian to enter into an agency contract unless registered under sections 436.215 to 436.272;

22 (2) Refuse or ~~[willfully]~~ fail to retain or permit inspection of the records required by section
23 436.251;

24 (3) Violate section 436.224 by failing to register;

25 (4) Provide materially false or misleading information in an application for registration or
26 renewal of registration;

27 (5) Predate or postdate an agency contract; or

28 (6) Fail to notify a student athlete or, if the student athlete is a minor, a parent or guardian of
29 the student athlete prior to the student ~~[athlete's]~~ athlete, parent, or guardian signing an agency
30 contract for a particular sport that the signing by the student athlete may make the student athlete
31 ineligible to participate as a student athlete in that sport.

32 436.263. Any person who violates any ~~[provisions]~~ provision of sections 436.215 to
33 ~~[436.269]~~ 436.272 is guilty of a class A misdemeanor and liable for a civil penalty not to exceed
34 fifty thousand dollars.

35 436.266. In applying and construing sections 436.215 to 436.272, consideration ~~[must]~~ shall
36 be given to the need to promote uniformity of the law with respect to the subject matter of sections
37 436.215 to 436.272 among states that enact it."; and

38
39 Further amend said bill, Page 168, Section 324.008, Line 57, by inserting after all of said section
40 and line the following:

41
42 "~~[436.257. The commission of any act prohibited by section 436.254 by an athlete agent is a~~
43 ~~class B misdemeanor.]~~"; and

44
45 Further amend said bill by amending the title, enacting clause, and intersectional references
46 accordingly.