

**ATHLETICS AND SPORTS (5 PA.C.S) - AMEND AGENTS REGISTRATION AND
PENALTY**

Act of Jan. 27, 1998, P.L. 13, No. 2

Cl. 05

Session of 1998

No. 1998-2

SB 425

AN ACT

Amending Title 5 (Athletics and Sports) of the Pennsylvania Consolidated Statutes, providing for the registration of athletic agents; and imposing a penalty.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 5 of the Pennsylvania Consolidated Statutes is amended by adding a part to read:

PART II

ATHLETIC AGENTS

Subpart

A. General Provisions

B. Registration of Athletic Agents

SUBPART A

GENERAL PROVISIONS

Chapter

31. Preliminary Provisions

CHAPTER 31

PRELIMINARY PROVISIONS

Sec.

3101. Short title of part.

3102. Definitions.

3103. Rules and regulations.

§ 3101. Short title of part.

This part shall be known and may be cited as the Athletic Agent Registration Act.

§ 3102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agent contract." Any contract or agreement pursuant to which a person authorizes or empowers an athletic agent to negotiate or solicit on behalf of the person with one or more professional sports teams for the employment of the person by a professional sports team as a professional athlete.

"Athletic agent." A person who directly or indirectly recruits or solicits a person to enter into an agent contract or professional sport services contract or who procures, offers, promises or attempts to obtain employment for a person with a professional sports team as a professional athlete. The term does not include a coach, trainer or other employee of a secondary or postsecondary school who is acting on behalf of a student-athlete of the same secondary or postsecondary school, provided that such activities are within the scope of employment of such coach, trainer or other employee.

"Commission." The State Athletic Commission.

"Conviction." A finding of guilt by a judge or jury, a plea of guilty or a plea of nolo contendere.

"Department." The Department of State of the Commonwealth.

"Institution of higher education." A public or private college or university, including a community college.

"Person." An individual, sole proprietorship, partnership, association, corporation or other legal entity.

"Professional sport services contract." A contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sports team or as a professional athlete.

§ 3103. Rules and regulations.

The commission shall have the power and duty to adopt and revise regulations, in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, as are reasonably necessary to administer and effectuate the purposes of this part.

SUBPART B REGISTRATION OF ATHLETIC AGENTS

Chapter

33. Registration.

CHAPTER 33 REGISTRATION

Sec.

3301. Athletic agent registration.

3302. Application for registration.

3303. Qualifications for registration.

3304. Issuance of registration to certain persons prohibited.

3305. Unlawful actions by athletic agents.

3306. Suspension and revocation of registration.

3307. Bonding requirements.

3308. Exemption from registration and bonding requirement.

3309. Penalty; injunctive relief.

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3312. Transferability of registration.

§ 3301. Athletic agent registration.

A person shall not directly or indirectly serve or offer to serve as an athletic agent unless the person has first procured athletic agent registration from the commission.

§ 3302. Application for registration.

(a) Procedure.--Every application for athletic agent registration shall:

(1) Be in writing on a form supplied by the commission and approved by the department.

(2) Be verified by the applicant.

(3) Contain the information required by this chapter and such other information as the commission may reasonably require.

(4) Be submitted together with a processing fee of \$50. Every applicant shall complete an application or process as may be necessary to request the Pennsylvania State Police to provide a copy of the applicant's criminal history record to the commission.

(b) Fees.--

(1) The annual registration fee which shall accompany the application for athletic agent registration shall be as follows:

(i) Individual or sole proprietor - \$100.

(ii) Partnership, association, corporation or other legal entity - \$200.

(2) The fee for each duplicate registration shall be \$20.

(3) If the revenues raised by fees, fines and civil penalties imposed in accordance with the provisions of this chapter are not sufficient to match the expenditures necessary to carry out the provisions of this chapter, the commission shall increase those fees by regulation so that the revenues will match the expenditures.

(c) Term.--Registrations shall be issued on an annual basis and shall expire on December 31 of each year.

(d) Out-of-State agents.--An unregistered out-of-State agent representing an athlete shall be allowed to negotiate professional sport services contracts in this Commonwealth provided:

(1) the out-of-State agent has never had registration issued under this chapter revoked by the commission;

(2) the out-of-State agent notifies the commission of his intention to apply for registration within seven days of commencing negotiations with a Commonwealth professional sports team or promoter; and

(3) the out-of-State agent completes the required application within 30 days of commencing negotiations with a Commonwealth professional sports team or promoter.

§ 3303. Qualifications for registration.

The commission shall not issue athletic agent registration to a person unless the following qualifications are met:

(1) The applicant is 21 years of age or older.

(2) The applicant possesses good moral character.

(3) The applicant, neither at the time of application nor within ten years prior to the time of application, has been finally found to have participated in any conduct that led to the imposition of sanctions against an athlete, institution of higher education or professional sports team by any association or organization that establishes rules for the conduct of amateur or professional sports.

§ 3304. Issuance of registration to certain persons prohibited.

(a) Prior criminal acts.--The commission shall not issue athletic agent registration to or renew the athletic agent registration of a person who has been convicted of any of the following offenses, or any comparable offense in another jurisdiction, within ten years of the date of application:

(1) An offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(2) An offense under the following provisions of 18 Pa.C.S. (relating to crimes and offenses):
Section 902 (relating to criminal solicitation).
Section 908 (relating to prohibited offensive weapons).
Section 2502 (relating to murder).
Section 2901 (relating to kidnapping).
Section 3121 (relating to rape).
Section 3126 (relating to indecent assault).
Section 3923 (relating to theft by extortion).
Section 4109 (relating to rigging publicly exhibited contest).
Section 4302 (relating to incest).
Section 4304 (relating to endangering welfare of children).
Section 4305 (relating to dealing in infant children).
Section 4701 (relating to bribery in official and political matters).
Section 4902 (relating to perjury).
Section 5501 (relating to riot).

Section 5504 (relating to harassment by communication or address).

Section 5512 (relating to lotteries, etc.).

Section 5513 (relating to gambling devices, gambling, etc.).

Section 5514 (relating to pool selling and bookmaking).

Section 5901 (relating to open lewdness).

Section 5902 (relating to prostitution and related offenses).

Section 5903 (relating to obscene and other sexual materials and performances).

Section 5904 (relating to public exhibition of insane or deformed person).

Section 6301 (relating to corruption of minors).

Section 6312 (relating to sexual abuse of children).

Section 7107 (relating to unlawful actions by athlete agents).

(b) Prohibited practices.--The commission shall not issue registration to any person who has been found by the commission to have engaged in the activities of an athletic agent in this Commonwealth without acquiring registration as required by this chapter within 12 months prior to the date of application.

§ 3305. Unlawful actions by athletic agents.

An athletic agent shall be prohibited from engaging in the following actions:

(1) Entering into an oral or written agent contract or professional sport services contract with a student athlete before the student athlete's eligibility for collegiate athletics has expired.

(2) Before the student athlete's eligibility for collegiate athletics has expired, giving, offering or promising anything of value to:

(i) a student athlete;

(ii) any member of the student athlete's immediate family; or

(iii) any individual who substantially contributes to the economic support of the student athlete. For purposes of this subparagraph, an individual shall be deemed to have substantially contributed to the economic support of a student athlete if the individual provides 25% or more of the cost of tuition, room and board and incidental expenses of the student athlete's education or provides to the student athlete at minimal or no cost non-college-based lodging or meals or transportation to and from college classes.

(3) Giving, offering or promising an oral or written contract which would require the athletic agent to give, offer or promise anything of value to any employee of an institution of higher education in return for a referral of a student athlete by the employee.

(4) Engaging in the activities of an athletic agent without a current valid registration.

(5) Violating any provision of this part or regulation of the commission.

§ 3306. Suspension and revocation of registration.

(a) Investigation.--The commission or its designee may review the operations of all registered athletic agents and shall prepare a written report for review by the commission.

(b) Cease and desist order.--The commission may issue an immediate cease and desist order against an athletic agent who has been found preliminarily by the commission to have committed a violation of 18 Pa.C.S. § 7107 (relating to unlawful actions by athlete agents) or a violation of this chapter. Within 20 days of issuance of the cease and desist order, the commission

shall conduct a hearing to determine whether the cease and desist order should be dissolved or made permanent.

(c) Sanctions.--Upon finding that a registrant has violated any provision of this chapter or a regulation of the commission or any comparable offense in another jurisdiction, the commission may suspend, revoke, restrict or otherwise limit registration as determined by the commission.

(d) Conduct of hearings.--The commission shall conduct all hearings in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

§ 3307. Bonding requirements.

(a) Amount.--Before any athletic agent registration is issued, the applicant shall be required to execute and file a surety bond with the commission in such reasonable amount, but not less than \$20,000, as the commission shall require.

(b) Bond forms.--All bonds shall be upon forms supplied by the commission and which have been approved by the department. All bonds shall be accompanied by a \$25 filing fee.

(c) Conditions of bonds.--The surety bond shall be conditioned upon the following:

(1) Compliance with this chapter.

(2) The payment of all sums due a person at the time the sums are due and payable.

(3) The payment of all damages suffered by any person as a result of intentional or unintentional misstatements, misrepresentation, fraud, deceit or unlawful or negligent acts of the athletic agent while acting as an athletic agent.

(d) Alternate security.--

(1) In lieu of a surety bond, a registrant may deposit with the commission cash, a certified check or a letter of credit in an equivalent amount. The provisions of this section regarding bonds shall apply to the alternate security provided for in this subsection.

(2) The security shall not be returned to a registrant until one year after the athletic agent's registration has expired. After that time, if there are no claims against the registered athletic agent, the alternate security shall be returned to the depositor.

(e) Recovery on bond.--Recovery may be had on a bond or deposit of alternate security in the same manner as penalties are recoverable at law.

§ 3308. Exemption from registration and bonding requirement.

(a) Immediate family members.--Athletic agents who are representing an immediate family member are exempt from the provisions of this chapter.

(b) Definition.--As used in this section, the term "immediate family" means a parent, spouse, brother, sister, son or daughter.

§ 3309. Penalty; injunctive relief.

(a) Penalty.--The commission may impose a civil penalty of not more than \$5,000 for each violation or conviction against any person who violates this chapter or who is convicted of a violation of 18 Pa.C.S. § 7107 (relating to unlawful actions by athlete agents).

(b) Injunctive relief.--The commission may, in the name of the people of this Commonwealth, through the Office of Attorney General, apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of this chapter. Such injunctive relief shall be in addition to and not in lieu of all penalties and other remedies in this chapter.

§ 3310. Disposition of commission receipts.

All fees, civil penalties, forfeitures and other moneys collected under this chapter and the regulations of the commission shall be paid into the Athletic Commission Augmentation Account.

§ 3311. Records.

A record of all persons registered under this chapter shall be kept in the office of the commission and shall be open to public inspection and copying upon payment of a nominal fee for copying the record.

§ 3312. Transferability of registration.

No registration issued under this chapter shall be assignable or transferable.

Section 2. This act shall take effect in 60 days.

APPROVED--The 27th day of January, A. D. 1998.

THOMAS J. RIDGE