

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 450 Session of
1993

INTRODUCED BY COLAFELLA, DALEY, PESCI, GIGLIOTTI, ADOLPH,
KASUNIC, BELFANTI, GERLACH, TOMLINSON, COLAIZZO AND JAMES,
MARCH 15, 1993

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 10, 1993

AN ACT

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

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

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

8 TITLE 5

9 ATHLETICS AND SPORTS

10 * * *

11 PART II

12 ATHLETIC AGENTS

13 Subpart

14 A. General Provisions

15 B. Licensing of Athletic Agents

16 SUBPART A

17 GENERAL PROVISIONS

1 Chapter

2 31. Preliminary Provisions

3 CHAPTER 31

4 PRELIMINARY PROVISIONS

5 Sec.

6 3101. Short title of part.

7 3102. Definitions.

8 § 3101. Short title of part.

9 This part shall be known and may be cited as the Athletic
10 Agent Licensing Act.

11 § 3102. Definitions.

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

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

24 "Athletic agent." A person who, directly or indirectly,
25 recruits or solicits a person to enter into an agent contract or
26 professional sport services contract or who procures, offers,
27 promises or attempts to obtain employment for a person with a
28 professional sports team or as a professional athlete, BUT SHALL <—
29 NOT INCLUDE THE COACH OR TRAINER OF A SECONDARY OR POSTSECONDARY
30 SCHOOL ATHLETE, PROVIDED THE COACH OR TRAINER IS PERFORMING HIS

1 WORK-RELATED RESPONSIBILITIES.

2 "Commission." The State Athletic Commission.

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

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

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

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

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

14 SUBPART B

15 LICENSING OF ATHLETIC AGENTS

16 Chapter

17 33. Licensing.

18 Sec.

19 3301. Athletic agents' licenses.

20 3302. Application for license.

21 3303. Qualifications for license.

22 3304. Issuance of license to certain persons prohibited.

23 3305. Suspension and revocation of licenses.

24 3306. Bonding requirements.

25 3307. Penalty.

26 § 3301. Athletic agents' licenses.

27 No person shall directly or indirectly serve or offer to
28 serve as an athletic agent unless the person has first procured
29 an athletic agent's license from the commission.

30 § 3302. Application for license.

(a) Procedure.--Every application for an athletic agent's license 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.

(b) Fees.--

(1) The annual license fee which shall accompany the application for an athletic agent's license 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 license shall be \$20.

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

§ 3303. Qualifications for license.

The commission shall not issue an athletic agent's license 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 at any time prior to the time of application, has been involved 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

1 amateur or professional sports.

2 § 3304. Issuance of license to certain persons prohibited.

3 The commission shall not issue an athletic agent's license to
4 or renew the athletic agent's license of a person who has been
5 convicted of any of the following offenses within ten years of
6 the date of application:

7 (1) An offense under the following provisions of 18
8 Pa.C.S. (relating to crimes and offenses):

9 Section 902 (relating to criminal solicitation).

10 Section 908 (relating to prohibited offensive weapons).

11 Section 2502 (relating to murder).

12 Section 2901 (relating to kidnapping).

13 Section 3121 (relating to rape).

14 Section 3126 (relating to indecent assault).

15 Section 3923 (relating to theft by extortion).

16 Section 4109 (relating to rigging publicly exhibited
17 contest).

18 Section 4301 (relating to bigamy).

19 Section 4302 (relating to incest).

20 Section 4303 (relating to concealing death of child born
21 out of wedlock).

22 Section 4304 (relating to endangering welfare of
23 children).

24 Section 4305 (relating to dealing in infant children).

25 Section 4701 (relating to bribery in official and
26 political matters).

27 Section 4902 (relating to perjury).

28 Section 5501 (relating to riot).

29 ~~Section 5502 (relating to failure of disorderly persons~~
30 ~~to disperse upon official order).~~

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1 ~~Section 5503 (relating to disorderly conduct).~~

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

4 ~~Section 5505 (relating to public drunkenness).~~ <—

5 ~~Section 5506 (relating to loitering and prowling at night~~
6 ~~time).~~

7 ~~Section 5507 (relating to obstructing highways and other~~
8 ~~public passages).~~

9 ~~Section 5508 (relating to disrupting meetings and~~
10 ~~processions).~~

11 Section 5509 (relating to desecration of venerated
12 objects).

13 Section 5510 (relating to abuse of corpse).

14 Section 5511 (relating to cruelty to animals).

15 Section 5512 (relating to lotteries, etc.).

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

18 Section 5514 (relating to pool selling and bookmaking).

19 ~~Section 5515 (relating to prohibiting of paramilitary~~ <—
20 ~~training).~~

21 Section 5901 (relating to open lewdness).

22 Section 5902 (relating to prostitution and related
23 offenses).

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

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

28 Section 6301 (relating to corruption of minors).

29 Section 6302 (relating to sale or lease of weapons and
30 explosives).

Section 6303 (relating to sale of starter pistols).

~~Section 6304 (relating to sale and use of air rifles).~~

~~Section 6305 (relating to sale of tobacco).~~

Section 6306 (relating to furnishing cigarettes or
cigarette papers).

~~Section 6307 (relating to misrepresentation of age
to secure liquor or malt or brewed beverages).~~

~~Section 6308 (relating to purchase, consumption,
possession or transportation of liquor or malt or
brewed beverages).~~

~~Section 6309 (relating to representing that minor
is of age).~~

~~Section 6310 (relating to inducement of minors to
buy liquor or malt or brewed beverages).~~

~~Section 6310.1 (relating to selling or furnishing
liquor or malt or brewed beverages to minors).~~

~~Section 6310.2 (relating to manufacture of sale of false
identification card).~~

~~Section 6310.3 (relating to carrying a false
identification card).~~

~~Section 6311 (relating to tattooing).~~

Section 6312 (relating to sexual abuse of children).

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

§ 3305. Suspension and revocation of licenses.

~~(a) Investigation. The commission may review the operations
of all licensees and shall prepare a written report of all
complaints. The commission shall forward all complaints to the
Office of Attorney General for investigation.~~

1 (A) INVESTIGATION.--THE EXECUTIVE DIRECTOR MAY REVIEW THE
2 OPERATIONS OF ALL LICENSES AND SHALL PREPARE A WRITTEN REPORT
3 FOR REVIEW BY THE COMMISSION.

4 (b) Cease and desist order.--Upon recommendation by the
5 executive director of the commission, the commission may issue
6 an immediate cease and desist order against a licensee who has
7 been found preliminarily by the commission to have committed a
8 violation of 18 Pa.C.S. § 7107 (relating to unlawful actions by
9 athlete agents) or a violation of this chapter. Within 20 days
10 of issuance of the cease and desist order, the commission shall
11 conduct a hearing to determine whether the cease and desist
12 order should be dissolved or made permanent.

13 (c) Suspension.--Upon a finding by the commission that a
14 licensee has violated any provision of this chapter or upon
15 conviction of a licensee of a violation of 18 Pa.C.S. § 7107,
16 the commission may suspend the person's license for not more
17 than one year.

18 (d) Revocation.--Upon a finding by the commission that a
19 licensee has violated any provision of this chapter or upon
20 conviction of a licensee of a violation of 18 Pa.C.S. § 7107,
21 where the violation was committed or the conviction occurred
22 within 12 months of a previous violation or conviction, the
23 commission shall revoke the person's license.

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

27 § 3306. Bonding requirements.

28 (a) Amount.--Before any athletic agent's license is issued,
29 the applicant shall be required to execute and file a surety
30 bond with the commission in such reasonable amount, but not less

1 than \$10,000, as the commission shall require.

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

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

7 (1) Compliance with this chapter.

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

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

14 (d) Alternate security.--

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

20 (2) The security shall not be returned to a licensee
21 until one year after the athletic agent's license has
22 expired. After this time, if there are no claims against the
23 license, the alternate security shall be returned to the
24 depositor.

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

28 § 3307. EXEMPTION FROM BONDING REQUIREMENT.

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29 (A) IMMEDIATE FAMILY MEMBERS.--ATHLETIC AGENTS WHO ARE
30 REPRESENTING AN IMMEDIATE FAMILY MEMBER ARE EXEMPT FROM SECTION

1 3306 (RELATING TO BONDING REQUIREMENTS).

2 (B) DEFINITIONS.--AS USED IN THIS SECTION, THE TERM
3 "IMMEDIATE FAMILY" MEANS A PARENT, STEPPARENT, GRANDPARENT,
4 SPOUSE, SON, DAUGHTER, UNCLE, AUNT, BROTHER, SISTER OR FIRST
5 COUSIN.

6 § ~~3307~~ 3308. Penalty.

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7 The commission may impose a civil penalty of not more than
8 \$5,000 for each violation or conviction against any person who
9 violates this chapter or who is convicted of a violation of 18
10 Pa.C.S. § 7107 (relating to unlawful actions by athlete agents).

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