

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 423

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO ATHLETE AGENTS; AMENDING SECTION 54-4802, IDAHO CODE, TO RE-
2 MOVE A REGISTRATION REQUIREMENT, TO REMOVE DEFINITIONS, AND TO MAKE A
3 TECHNICAL CORRECTION; REPEALING SECTION 54-4803, IDAHO CODE, RELATING
4 TO AUTHORITY OF THE BUREAU OF OCCUPATIONAL LICENSES; REPEALING SECTION
5 54-4804, IDAHO CODE, RELATING TO MANDATORY ATHLETE AGENT REGISTRATION;
6 REPEALING SECTION 54-4805, IDAHO CODE, RELATING TO ATHLETE AGENT REGIS-
7 TRATION REQUIREMENTS; REPEALING SECTION 54-4806, IDAHO CODE, RELATING
8 TO CERTIFICATES OF REGISTRATION; REPEALING SECTION 54-4807, IDAHO
9 CODE, RELATING TO REGISTRATION SUSPENSION, REVOCATION, AND NONRENEWAL;
10 REPEALING SECTION 54-4808, IDAHO CODE, RELATING TO TEMPORARY REGISTRA-
11 TION; REPEALING SECTION 54-4809, IDAHO CODE, RELATING TO REGISTRATION
12 AND RENEWAL FEES; AMENDING SECTION 54-4810, IDAHO CODE, TO REMOVE PRO-
13 VISIONS REGARDING REGISTRATION; AMENDING SECTION 54-4811, IDAHO CODE,
14 TO REMOVE A REFERENCE TO THE BUREAU OF OCCUPATIONAL LICENSES; AMENDING
15 SECTION 54-4813, IDAHO CODE, TO REVISE A PROVISION REGARDING ENTITIES
16 THAT MAY INSPECT CERTAIN RECORDS; AMENDING SECTION 54-4814, IDAHO CODE,
17 TO REMOVE REGISTRATION REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS;
18 AND REPEALING SECTION 54-4817, IDAHO CODE, RELATING TO A CIVIL PENALTY.
19

20 Be It Enacted by the Legislature of the State of Idaho:

21 SECTION 1. That Section 54-4802, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 54-4802. DEFINITIONS. As used in this chapter:

24 (1) "Agency contract" means an agreement in which a student athlete au-
25 thORIZES a person to negotiate or solicit on behalf of the athlete a profes-
26 sional-sports-services contract or endorsement contract.

27 (2) "Athlete agent":

28 (a) Means an individual, ~~whether or not registered under this chapter,~~
29 who:

30 (i) Directly or indirectly recruits or solicits a student athlete
31 to enter into an agency contract or, for compensation, procures
32 employment or offers, promises, attempts or negotiates to obtain
33 employment for a student athlete as a professional athlete or mem-
34 ber of a professional sports team or organization;

35 (ii) For compensation or in anticipation of compensation related
36 to a student athlete's participation in athletics:

37 1. Serves the athlete in an advisory capacity on a matter
38 related to finances, business pursuits or career management
39 decisions, unless the individual is an employee of an educa-
40 tional institution acting exclusively as an employee of the
41 institution for the benefit of the institution; or

- 1 2. Manages the business affairs of the athlete by providing
2 assistance with bills, payments, contracts or taxes; or
3 (iii) In anticipation of representing a student athlete for a pur-
4 pose related to the athlete's participation in athletics:
5 1. Gives consideration to the student athlete or another
6 person;
7 2. Serves the athlete in an advisory capacity on a matter
8 related to finances, business pursuits or career management
9 decisions; or
10 3. Manages the business affairs of the athlete by providing
11 assistance with bills, payments, contracts or taxes; but

12 (b) Does not include an individual who:

- 13 (i) Acts solely on behalf of a professional sports team or organi-
14 zation; or
15 (ii) Is a licensed, registered or certified professional and of-
16 fers or provides services to a student athlete customarily pro-
17 vided by members of the profession, unless the individual:
18 1. Also recruits or solicits the athlete to enter into an
19 agency contract;
20 2. Also, for compensation, procures employment or offers,
21 promises, attempts or negotiates to obtain employment for
22 the athlete as a professional athlete or member of a profes-
23 sional sports team or organization; or
24 3. Receives consideration for providing the services calcu-
25 lated using a different method than for an individual who is
26 not a student athlete.

27 (3) "Athletic director" means the individual responsible for adminis-
28 tering the overall athletic program of an educational institution or, if an
29 educational institution has separately administered athletic programs for
30 male students and female students, the athletic program for males or the ath-
31 letic program for females, as appropriate.

32 (4) ~~"Bureau" means the bureau of occupational licenses.~~

33 ~~(5) "Educational institution" includes a public or private elementary~~
34 ~~school, secondary school, technical or vocational school, community col-~~
35 ~~lege, college and university.~~

36 ~~(65) "Endorsement contract" means an agreement under which a student~~
37 ~~athlete is employed or receives consideration to use on behalf of the other~~
38 ~~party any value that the athlete may have because of publicity, reputation,~~
39 ~~following or fame obtained because of athletic ability or performance.~~

40 (76) "Enrolled" means registered for courses and attending athletic
41 practice or class. "Enrolls" has a corresponding meaning.

42 (87) "Intercollegiate sport" means a sport played at the collegiate
43 level for which eligibility requirements for participation by a student
44 athlete are established by a national association that promotes or regulates
45 collegiate athletics.

46 (98) "Interscholastic sport" means a sport played between educational
47 institutions that are not community colleges, colleges or universities.

48 ~~(10) "Licensed, registered or certified professional" means an indi-~~
49 ~~vidual licensed, registered or certified as an attorney, dealer in securi-~~
50 ~~ties, financial planner, insurance agent, real estate broker or sales agent,~~

1 ~~tax consultant, accountant or member of a profession, other than that of ath-~~
 2 ~~lete agent, who is licensed, registered or certified by the state or a na-~~
 3 ~~tionally recognized organization that licenses, registers or certifies mem-~~
 4 ~~bers of the profession on the basis of experience, education or testing.~~

5 (119) "Person" means an individual, estate, business or nonprofit en-
 6 tity, public corporation, government or governmental subdivision, agency or
 7 instrumentality, or other legal entity.

8 (120) "Professional-sports-services contract" means an agreement un-
 9 der which an individual is employed as a professional athlete or agrees to
 10 render services as a player on a professional sports team or with a profes-
 11 sional sports organization.

12 (131) "Record" means information that is inscribed on a tangible medium
 13 or that is stored in an electronic or other medium and is retrievable in per-
 14 ceivable form.

15 (142) "Recruit or solicit" means attempt to influence the choice of an
 16 athlete agent by a student athlete or, if the athlete is a minor, a parent or
 17 guardian of the athlete. The term does not include giving advice on the se-
 18 lection of a particular agent in a family, coaching or social situation un-
 19 less the individual giving the advice does so because of the receipt or an-
 20 ticipated receipt of an economic benefit, directly or indirectly, from the
 21 agent.

22 ~~(15) "Registration" means registration as an athlete agent under this~~
 23 ~~chapter.~~

24 (163) "Sign" means, with present intent to authenticate or adopt a
 25 record:

26 (a) To execute or adopt a tangible symbol; or

27 (b) To attach to or logically associate with the record an electronic
 28 symbol, sound or process.

29 (174) "State" means a state of the United States, the District of Colum-
 30 bia, Puerto Rico, the United States Virgin Islands or any territory or insu-
 31 lar possession subject to the jurisdiction of the United States.

32 (185) "Student athlete" means an individual who is eligible to attend
 33 an educational institution and engages in, is eligible to engage in, or may
 34 be eligible in the future to engage in, any interscholastic or intercolle-
 35 giate sport. The term does not include an individual permanently ineligible
 36 to participate in a particular interscholastic or intercollegiate sport for
 37 that sport.

38 SECTION 2. That Section [54-4803](#), Idaho Code, be, and the same is hereby
 39 repealed.

40 SECTION 3. That Section [54-4804](#), Idaho Code, be, and the same is hereby
 41 repealed.

42 SECTION 4. That Section [54-4805](#), Idaho Code, be, and the same is hereby
 43 repealed.

44 SECTION 5. That Section [54-4806](#), Idaho Code, be, and the same is hereby
 45 repealed.

1 SECTION 6. That Section [54-4807](#), Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 7. That Section [54-4808](#), Idaho Code, be, and the same is hereby
4 repealed.

5 SECTION 8. That Section [54-4809](#), Idaho Code, be, and the same is hereby
6 repealed.

7 SECTION 9. That Section 54-4810, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 54-4810. REQUIRED FORM OF AGENCY CONTRACT. (1) An agency contract must
10 be in a record signed by the parties.

11 (2) An agency contract must contain:

12 (a) ~~A statement that the athlete agent is registered as an athlete agent~~
13 ~~in this state and a list of any other states in which the agent is regis-~~
14 ~~tered as an athlete agent;~~

15 ~~(b)~~ The amount and method of calculating the consideration to be paid
16 by the student athlete for services to be provided by the agent under the
17 contract and any other consideration the agent has received or will re-
18 ceive from any other source for entering into the contract or providing
19 the services;

20 ~~(e_b)~~ The name of any person ~~not listed in the agent's application for~~
21 ~~registration or renewal of registration that~~ who will be compensated
22 because the athlete signed the contract;

23 ~~(d_c)~~ A description of any expenses the athlete agrees to reimburse;

24 ~~(e_d)~~ A description of the services to be provided to the athlete;

25 ~~(f_e)~~ The duration of the contract; and

26 ~~(g_f)~~ The date of execution.

27 (3) Subject to subsection (7) of this section, an agency contract must
28 contain a conspicuous notice in boldface type and in substantially the fol-
29 lowing form:

30 WARNING TO STUDENT ATHLETE

31 IF YOU SIGN THIS CONTRACT:

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

34 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGN-
35 ING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN
36 WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR
37 ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE EN-
38 TERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMA-
39 TION OF THE ATHLETE AGENT; AND

40 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.
41 CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY
42 AS A STUDENT ATHLETE IN YOUR SPORT.

43 (4) An agency contract must be accompanied by a separate record signed
44 by the student athlete or, if the athlete is a minor, the parent or guardian

1 of the athlete acknowledging that signing the contract may result in the loss
2 of the athlete's eligibility to participate in the athlete's sport.

3 (5) A student athlete or, if the athlete is a minor, the parent or
4 guardian of the athlete may void an agency contract that does not conform to
5 this section. If the contract is voided, any consideration received from the
6 athlete agent under the contract to induce entering into the contract is not
7 required to be returned.

8 (6) At the time an agency contract is executed, the athlete agent shall
9 give the student athlete or, if the athlete is a minor, the parent or guardian
10 of the athlete a copy in a record of the contract and the separate acknowledg-
11 ment required by subsection (4) of this section.

12 (7) If a student athlete is a minor, an agency contract must be signed by
13 the parent or guardian of the minor and the notice required by subsection (3)
14 of this section must be revised accordingly.

15 SECTION 10. That Section 54-4811, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 54-4811. NOTICE TO EDUCATIONAL INSTITUTION. (1) As used in this sec-
18 tion, "communicating or attempting to communicate" means contacting or at-
19 tempting to contact by an in-person meeting, a record or any other method
20 that conveys or attempts to convey a message.

21 (2) Not later than seventy-two (72) hours after entering into an agency
22 contract or before the next scheduled athletic event in which the student
23 athlete may participate, whichever occurs first, the athlete agent shall
24 give notice in a record of the existence of the contract to the athletic
25 director of the educational institution at which the athlete is enrolled or
26 at which the agent has reasonable grounds to believe the athlete intends to
27 enroll.

28 (3) Not later than seventy-two (72) hours after entering into an agency
29 contract or before the next scheduled athletic event in which the student
30 athlete may participate, whichever occurs first, the athlete shall inform
31 the athletic director of the educational institution at which the athlete is
32 enrolled that the athlete has entered into an agency contract and the name
33 and contact information of the athlete agent.

34 (4) If an athlete agent enters into an agency contract with a student
35 athlete and the athlete subsequently enrolls at an educational institution,
36 the agent shall notify the athletic director of the institution of the exis-
37 tence of the contract not later than seventy-two (72) hours after the agent
38 knew or should have known that the athlete enrolled.

39 (5) If an athlete agent has a relationship with a student athlete be-
40 fore the athlete enrolls in an educational institution and receives an ath-
41 letic scholarship from the institution, the agent shall notify the institu-
42 tion of the relationship not later than ten (10) days after the enrollment if
43 the agent knows or should have known of the enrollment and:

44 (a) The relationship was motivated in whole or in part by the intention
45 of the agent to recruit or solicit the athlete to enter an agency con-
46 tract in the future; or

47 (b) The agent directly or indirectly recruited or solicited the athlete
48 to enter an agency contract before the enrollment.

1 (6) An athlete agent shall give notice in a record to the athletic di-
2 rector of any educational institution at which a student athlete is enrolled
3 before the agent communicates or attempts to communicate with:

4 (a) The athlete or, if the athlete is a minor, a parent or guardian of
5 the athlete, to influence the athlete or parent or guardian to enter
6 into an agency contract; or

7 (b) Another individual to have that individual influence the athlete
8 or, if the athlete is a minor, the parent or guardian of the athlete to
9 enter into an agency contract.

10 (7) If a communication or attempt to communicate with an athlete agent
11 is initiated by a student athlete or another individual on behalf of the ath-
12 lete, the agent shall notify in a record the athletic director of any educa-
13 tional institution at which the athlete is enrolled. The notification must
14 be made not later than ten (10) days after the communication or attempt.

15 (8) An educational institution that becomes aware of a violation of
16 this chapter by an athlete agent shall notify ~~the bureau~~ and any professional
17 league or players association with which the institution is aware the agent
18 is licensed or registered of the violation.

19 SECTION 11. That Section 54-4813, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 54-4813. REQUIRED RECORDS. (1) An athlete agent shall create and re-
22 tain for five (5) years records of the following:

23 (a) The name and address of each individual represented by the agent;

24 (b) Each agency contract entered into by the agent; and

25 (c) The direct costs incurred by the agent in the recruitment or solici-
26 tation of each student athlete to enter into an agency contract.

27 (2) Records described in subsection (1) of this section are open to in-
28 spection ~~by the bureau~~ during normal business hours by any educational in-
29 stitution whose student athlete contracts with an athlete agent.

30 SECTION 12. That Section 54-4814, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 54-4814. PROHIBITED CONDUCT. (1) An athlete agent, with the intent
33 to influence a student athlete or, if the athlete is a minor, a parent or
34 guardian of the athlete to enter into an agency contract, may not take any
35 of the following actions or encourage any other individual to take or assist
36 any other individual in taking any of the following actions on behalf of the
37 agent:

38 (a) Give materially false or misleading information or make a materi-
39 ally false promise or representation;

40 (b) Furnish anything of value to the athlete before the athlete enters
41 into the contract; or

42 (c) Furnish anything of value to an individual other than the athlete or
43 another registered athlete agent.

44 (2) An athlete agent may not intentionally do any of the following or
45 encourage any other individual to do any of the following on behalf of the
46 agent:

- 1 ~~(a) Initiate contact, directly or indirectly, with a student athlete~~
2 ~~or, if the athlete is a minor, a parent or guardian of the athlete, to re-~~
3 ~~cruit or solicit the athlete, parent or guardian to enter an agency con-~~
4 ~~tract unless registered under this chapter;~~
5 ~~(b) Fail to create or retain or to permit inspection of the records re-~~
6 ~~quired by section 54-4813, Idaho Code;~~
7 ~~(c) Fail to register when required by section 54-4804, Idaho Code;~~
8 ~~(d) Provide materially false or misleading information in an applica-~~
9 ~~tion for registration or renewal of registration;~~
10 (e~~b~~) Predate or postdate an agency contract; or
11 (~~f~~c) Fail to notify a student athlete or, if the athlete is a minor,
12 a parent or guardian of the athlete, before the athlete, parent or
13 guardian signs an agency contract for a particular sport that the sign-
14 ing may make the athlete ineligible to participate as a student athlete
15 in that sport.

16 SECTION 13. That Section [54-4817](#), Idaho Code, be, and the same is hereby
17 repealed.