

1 **SENATE FLOOR VERSION**

2 April 2, 2019

3 ENGROSSED HOUSE
4 BILL NO. 2636

By: Echols of the House

and

Standridge of the Senate

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9 An Act relating to athlete agents; creating the
10 Revised Uniform Athlete Agents Act; defining terms;
11 providing for application of the Administrative
12 Procedures Act; providing for promulgation of rules;
13 making Secretary of State agent for service of
14 process for nonresident athlete agents; requiring
15 registration; providing acts that may occur before
16 registration; providing that certain contracts are
17 void; providing for return of consideration;
18 providing registration procedure; requiring
19 application for registration to contain certain
20 information; providing for issuance of certificate of
21 registration; requiring the Secretary of State to
22 cooperate and exchange information with certain
23 organizations; authorizing the Secretary of State to
24 refuse to issue a certificate of registration for
specified reasons; providing for renewal of
registration; providing for suspension, revocation
and refusal to renew registrations; authorizing
issuance of temporary certificate of registration;
providing registration and renewal fees; providing
for certificates issued under prior law; providing
for deposit of fees in the Revolving Fund for the
Office of Secretary of State; providing requirements
for contracts; specifying information to be contained
in contract; requiring inclusion of warning;
requiring certain notice be given to educational
institution and athletic director; requiring
educational institution to notify the Secretary of
State of known violations; providing right to cancel
contract; providing that right cannot be waived;

1 providing that consideration need not be returned;
2 requiring athlete agent to keep certain records for
3 specified period of time; prohibiting certain
4 conduct; providing criminal penalties; providing that
5 certain portion of fines be deposited in the Attorney
6 General's Law Enforcement Revolving Fund; authorizing
7 the Secretary of State to assess civil penalties;
8 specifying maximum amount of civil penalties;
9 providing for uniformity of application and
10 construction; providing relation to Electronic
11 Signatures in Global and National Commerce Act;
12 amending 78 O.S. 2011, Sections 53 and 54, which
13 relate to the Oklahoma Deceptive Trade Practices Act;
14 expanding acts that constitute deceptive trade
15 practices to include violations of the Revised
16 Uniform Athlete Agents Act; expanding authority of
17 the Attorney General and district attorneys;
18 repealing 70 O.S. 2011, Sections 821.81, 821.82,
19 821.83, 821.84, 821.85, as amended by Section 1,
20 Chapter 173, O.S.L. 2012, 821.86, 821.87, 821.88,
21 821.89, 821.90, 821.91, 821.92, 821.93, 821.94,
22 821.95, 821.96, 821.97, 821.98 and 821.99 (70 O.S.
23 Supp. 2018, Section 821.85), which relate to the
24 Uniform Athlete Agents Act; providing for
codification; and providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 823.1 of Title 70, unless there
18 is created a duplication in numbering, reads as follows:

19 SHORT TITLE. This act shall be known and may be cited as the
20 "Revised Uniform Athlete Agents Act".

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 823.2 of Title 70, unless there
23 is created a duplication in numbering, reads as follows:

24 DEFINITIONS. As used in the Revised Uniform Athlete Agents Act:

1 1. "Agency contract" means an agreement in which a student
2 athlete authorizes a person to negotiate or solicit on behalf of the
3 athlete a professional-sports-services contract or endorsement
4 contract;

5 2. "Athlete agent":

6 a. means an individual, whether or not registered under
7 the Revised Uniform Athlete Agents Act, who:

8 (1) directly or indirectly recruits or solicits a
9 student athlete to enter into an agency contract
10 or, for compensation, procures employment or
11 offers, promises, attempts or negotiates to
12 obtain employment for a student athlete as a
13 professional athlete or member of a professional
14 sports team or organization,

15 (2) for compensation or in anticipation of
16 compensation related to a student athlete's
17 participation in athletics:

18 (a) serves the athlete in an advisory capacity
19 on a matter related to finances, business
20 pursuits or career management decisions,
21 unless the individual is an employee of an
22 educational institution acting exclusively
23 as an employee of the institution for the
24 benefit of the institution, or

1 (b) manages the business affairs of the athlete
2 by providing assistance with bills,
3 payments, contracts, or taxes, or

4 (3) in anticipation of representing a student athlete
5 for a purpose related to the athlete's
6 participation in athletics:

7 (a) gives consideration to the student athlete
8 or another person,

9 (b) serves the athlete in an advisory capacity
10 on a matter related to finances, business
11 pursuits or career management decisions, or

12 (c) manages the business affairs of the athlete
13 by providing assistance with bills,
14 payments, contracts or taxes, but

15 b. does not include an individual who:

16 (1) acts solely on behalf of a professional sports
17 team or organization, or

18 (2) is a licensed, registered or certified
19 professional and offers or provides services to a
20 student athlete customarily provided by members
21 of the profession, unless the individual:

22 (a) also recruits or solicits the athlete to
23 enter into an agency contract,
24

1 (b) also, for compensation, procures employment
2 or offers, promises, attempts or negotiates
3 to obtain employment for the athlete as a
4 professional athlete or member of a
5 professional sports team or organization, or
6 (c) receives consideration for providing the
7 services calculated using a different method
8 than for an individual who is not a student
9 athlete;

10 3. "Athletic director" means the individual responsible for
11 administering the overall athletic program of an educational
12 institution or, if an educational institution has separately
13 administered athletic programs for male students and female
14 students, the athletic program for males or the athletic program for
15 females, as appropriate;

16 4. "Educational institution" includes a public or private
17 elementary school, secondary school, technical or vocational school,
18 community college, college and university;

19 5. "Endorsement contract" means an agreement under which a
20 student athlete is employed or receives consideration to use on
21 behalf of the other party any value that the athlete may have
22 because of publicity, reputation, following or fame obtained because
23 of athletic ability or performance;

1 6. "Enrolled" means registered for courses and attending
2 athletic practice or class. "Enrolls" has a corresponding meaning;

3 7. "Intercollegiate sport" means a sport played at the
4 collegiate level for which eligibility requirements for
5 participation by a student athlete are established by a national
6 association that promotes or regulates collegiate athletics;

7 8. "Interscholastic sport" means a sport played between
8 educational institutions that are not community colleges, colleges
9 or universities;

10 9. "Licensed, registered or certified professional" means an
11 individual licensed, registered or certified as an attorney, dealer
12 in securities, financial planner, insurance agent, real estate
13 broker or sales agent, tax consultant, accountant, or member of a
14 profession other than that of athlete agent who is licensed,
15 registered or certified by the state or a nationally recognized
16 organization that licenses, registers or certifies members of the
17 profession on the basis of experience, education or testing;

18 10. "Person" means an individual, estate, business or nonprofit
19 entity, public corporation, government or governmental subdivision,
20 agency, or instrumentality or other legal entity;

21 11. "Professional-sports-services contract" means an agreement
22 under which an individual is employed as a professional athlete or
23 agrees to render services as a player on a professional sports team
24 or with a professional sports organization;

1 12. "Record" means information that is inscribed on a tangible
2 medium or that is stored in an electronic or other medium and is
3 retrievable in perceivable form;

4 13. "Recruit or solicit" means attempt to influence the choice
5 of an athlete agent by a student athlete or, if the athlete is a
6 minor, a parent or guardian of the athlete. The term does not
7 include giving advice on the selection of a particular agent in a
8 family, coaching or social situation unless the individual giving
9 the advice does so because of the receipt or anticipated receipt of
10 an economic benefit, directly or indirectly, from the agent;

11 14. "Registration" means registration as an athlete agent under
12 the Revised Uniform Athlete Agents Act;

13 15. "Sign" means, with present intent to authenticate or adopt
14 a record:

15 a. to execute or adopt a tangible symbol, or

16 b. to attach to or logically associate with the record an
17 electronic symbol, sound or process;

18 16. "State" means a state of the United States, the District of
19 Columbia, Puerto Rico, the United States Virgin Islands, or any
20 territory or insular possession subject to the jurisdiction of the
21 United States; and

22 17. "Student athlete" means an individual who is eligible to
23 attend an educational institution and engages in, is eligible to
24 engage in, or may be eligible in the future to engage in any

1 interscholastic or intercollegiate sport. The term does not include
2 an individual permanently ineligible to participate in a particular
3 interscholastic or intercollegiate sport for that sport.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 823.3 of Title 70, unless there
6 is created a duplication in numbering, reads as follows:

7 SECRETARY OF STATE; AUTHORITY; PROCEDURE.

8 A. The Administrative Procedures Act applies to the Revised
9 Uniform Athlete Agents Act. The Secretary of State may adopt rules
10 under the Administrative Procedures Act to implement the Revised
11 Uniform Athlete Agents Act.

12 B. By acting as an athlete agent in this state, a nonresident
13 individual appoints the Secretary of State as the individual's agent
14 for service of process in any civil action in this state related to
15 the individual acting as an athlete agent in this state.

16 C. The Secretary of State may issue a subpoena for material
17 that is relevant to the administration of the Revised Uniform
18 Athlete Agents Act pursuant to Section 315 of Title 75 of the
19 Oklahoma Statutes.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 823.4 of Title 70, unless there
22 is created a duplication in numbering, reads as follows:

23 ATHLETE AGENT; REGISTRATION REQUIRED; VOID CONTRACT.
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1 A. Except as otherwise provided in subsection B of this
2 section, an individual may not act as an athlete agent in this state
3 without holding a certificate of registration under the Revised
4 Uniform Athlete Agents Act.

5 B. Before being issued a certificate of registration under the
6 Revised Uniform Athlete Agents Act an individual may act as an
7 athlete agent in this state for all purposes except signing an
8 agency contract, if:

9 1. A student athlete or another person acting on behalf of the
10 athlete initiates communication with the individual; and

11 2. Not later than seven (7) days after an initial act that
12 requires the individual to register as an athlete agent, the
13 individual submits an application for registration as an athlete
14 agent in this state.

15 C. An agency contract resulting from conduct in violation of
16 this section is void, and the athlete agent shall return any
17 consideration received under the contract.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 823.5 of Title 70, unless there
20 is created a duplication in numbering, reads as follows:

21 REGISTRATION AS ATHLETE AGENT; APPLICATION; REQUIREMENTS;
22 RECIPROCAL REGISTRATION.

23 A. An applicant for registration as an athlete agent shall
24 submit an application for registration to the Secretary of State in

1 a form prescribed by the Secretary of State. The applicant must be
2 an individual, and the application must be signed by the applicant
3 under penalty of perjury. The application must contain at least the
4 following:

5 1. The name and date and place of birth of the applicant and
6 the following contact information for the applicant:

7 a. the address of the applicant's principal place of
8 business,

9 b. work and mobile telephone numbers, and

10 c. any means of communicating electronically, including a
11 facsimile number, electronic-mail address, and
12 personal and business or employer websites;

13 2. The name of the applicant's business or employer, if
14 applicable, including for each business or employer its mailing
15 address, telephone number, organization form and the nature of the
16 business;

17 3. Each social-media account with which the applicant or the
18 applicant's business or employer is affiliated;

19 4. Each business or occupation in which the applicant engaged
20 within five (5) years before the date of the application, including
21 self-employment and employment by others, and any professional or
22 occupational license, registration or certification held by the
23 applicant during that time;

24 5. A description of the applicant's:

- 1 a. formal training as an athlete agent,
- 2 b. practical experience as an athlete agent, and
- 3 c. educational background relating to the applicant's
- 4 activities as an athlete agent;

5 6. The name of each student athlete for whom the applicant
6 acted as an athlete agent within five (5) years before the date of
7 the application or, if the individual is a minor, the name of the
8 parent or guardian of the minor, together with the athlete's sport
9 and last-known team;

10 7. The name and address of each person that:

- 11 a. is a partner, member, officer, manager, associate or
- 12 profit sharer or directly or indirectly holds an
- 13 equity interest of five percent (5%) or greater of the
- 14 athlete agent's business if it is not a corporation,
- 15 and
- 16 b. is an officer or director of a corporation employing
- 17 the athlete agent or a shareholder having an interest
- 18 of five percent (5%) or greater in the corporation;

19 8. A description of the status of any application by the
20 applicant, or any person named under paragraph 7 of this subsection,
21 for a state or federal business, professional or occupational
22 license, other than as an athlete agent, from a state or federal
23 agency, including any denial, refusal to renew, suspension,

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1 withdrawal or termination of the license and any reprimand or
2 censure related to the license;

3 9. Whether the applicant, or any person named under paragraph 7
4 of this subsection, has pleaded guilty or no contest to, has been
5 convicted of, or has charges pending for, a crime that would involve
6 moral turpitude or be a felony if committed in this state and, if
7 so, identification of:

8 a. the crime,

9 b. the law enforcement agency involved, and

10 c. if applicable, the date of the conviction and the fine
11 or penalty imposed;

12 10. Whether, within fifteen (15) years before the date of
13 application, the applicant or any person named under paragraph 7 of
14 this subsection has been a defendant or respondent in a civil
15 proceeding, including a proceeding seeking a judicial determination
16 of incapacity pursuant to Sections 3-101 through 3-115 of Title 30
17 of the Oklahoma Statutes and, if so, the date and a full explanation
18 of each proceeding;

19 11. Whether the applicant or any person named under paragraph 7
20 of this subsection has an unsatisfied judgment or a judgment of
21 continuing effect, including alimony or a domestic order in the
22 nature of child support, which is not current at the date of the
23 application;

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1 12. Whether, within ten (10) years before the date of
2 application, the applicant or any person named under paragraph 7 of
3 this subsection was adjudicated bankrupt or was an owner of a
4 business that was adjudicated bankrupt;

5 13. Whether there has been any administrative or judicial
6 determination that the applicant or any person named under paragraph
7 7 of this subsection made a false, misleading, deceptive or
8 fraudulent representation;

9 14. Each instance in which conduct of the applicant or any
10 person named under paragraph 7 of this subsection resulted in the
11 imposition of a sanction, suspension or declaration of ineligibility
12 to participate in an interscholastic, intercollegiate or
13 professional athletic event on a student athlete or a sanction on an
14 educational institution;

15 15. Each sanction, suspension or disciplinary action taken
16 against the applicant or any person named under paragraph 7 of this
17 subsection arising out of occupational or professional conduct;

18 16. Whether there has been a denial of an application for,
19 suspension or revocation of, refusal to renew, or abandonment of,
20 the registration of the applicant or any person named under
21 paragraph 7 of this subsection as an athlete agent in any state;

22 17. Each state in which the applicant currently is registered
23 as an athlete agent or has applied to be registered as an athlete
24 agent;

1 18. If the applicant is certified or registered by a
2 professional league or players association:

3 a. the name of the league or association,

4 b. the date of certification or registration, and the
5 date of expiration of the certification or
6 registration, if any, and

7 c. if applicable, the date of any denial of an
8 application for, suspension or revocation of, refusal
9 to renew, withdrawal of, or termination of, the
10 certification or registration or any reprimand or
11 censure related to the certification or registration;
12 and

13 19. Any additional information required by the Secretary of
14 State.

15 B. Instead of proceeding under subsection A of this section, an
16 individual registered as an athlete agent in another state may apply
17 for registration as an athlete agent in this state by submitting to
18 the Secretary of State:

19 1. A copy of the application for registration in the other
20 state;

21 2. A statement that identifies any material change in the
22 information on the application or verifies there is no material
23 change in the information, signed under penalty of perjury; and
24

1 3. A copy of the certificate of registration from the other
2 state.

3 C. The Secretary of State shall issue a certificate of
4 registration to an individual who applies for registration under
5 subsection B of this section if the Secretary of State determines:

6 1. The application and registration requirements of the other
7 state are substantially similar to or more restrictive than this
8 act; and

9 2. The registration has not been revoked or suspended and no
10 action involving the individual's conduct as an athlete agent is
11 pending against the individual or the individual's registration in
12 any state.

13 D. For purposes of implementing subsection C of this section,
14 the Secretary of State shall:

15 1. Cooperate with national organizations concerned with athlete
16 agent issues and agencies in other states which register athlete
17 agents to develop a common registration form and determine which
18 states have laws that are substantially similar to or more
19 restrictive than the Revised Uniform Athlete Agents Act; and

20 2. Exchange information, including information related to
21 actions taken against registered athlete agents or their
22 registrations, with those organizations and agencies.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 823.6 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.

5 A. Except as otherwise provided in subsection B of this
6 section, the Secretary of State shall issue a certificate of
7 registration to an applicant for registration who complies with
8 subsection A of Section 5 of this act.

9 B. The Secretary of State may refuse to issue a certificate of
10 registration to an applicant for registration under subsection A of
11 Section 5 of this act if the Secretary of State determines that the
12 applicant has engaged in conduct that significantly adversely
13 reflects on the applicant's fitness to act as an athlete agent. In
14 making the determination, the Secretary of State may consider
15 whether the applicant has:

16 1. Pleaded guilty or no contest to, has been convicted of, or
17 has charges pending for, a crime that would involve moral turpitude
18 or be a felony if committed in this state;

19 2. Made a materially false, misleading, deceptive or fraudulent
20 representation in the application or as an athlete agent;

21 3. Engaged in conduct that would disqualify the applicant from
22 serving in a fiduciary capacity;

23 4. Engaged in conduct prohibited by Section 14 of this act;

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1 5. Had a registration as an athlete agent suspended, revoked or
2 denied in any state;

3 6. Been refused renewal of registration as an athlete agent in
4 any state;

5 7. Engaged in conduct resulting in imposition of a sanction,
6 suspension or declaration of ineligibility to participate in an
7 interscholastic, intercollegiate or professional athletic event on a
8 student athlete or a sanction on an educational institution; or

9 8. Engaged in conduct that adversely reflects on the
10 applicant's credibility, honesty or integrity.

11 C. In making a determination under subsection B of this
12 section, the Secretary of State shall consider:

13 1. How recently the conduct occurred;

14 2. The nature of the conduct and the context in which it
15 occurred; and

16 3. Other relevant conduct of the applicant.

17 D. An athlete agent registered under subsection A of this
18 section may apply to renew the registration by submitting an
19 application for renewal in a form prescribed by the Secretary of
20 State. The applicant shall sign the application for renewal under
21 penalty of perjury and include current information on all matters
22 required in an original application for registration.

23 E. An athlete agent registered under subsection C of Section 5
24 of this act may renew the registration by proceeding under

1 subsection D of this section or, if the registration in the other
2 state has been renewed, by submitting to the Secretary of State
3 copies of the application for renewal in the other state and the
4 renewed registration from the other state. The Secretary of State
5 shall renew the registration if the Secretary of State determines:

6 1. The registration requirements of the other state are
7 substantially similar to or more restrictive than the Revised
8 Uniform Athlete Agents Act; and

9 2. The renewed registration has not been suspended or revoked
10 and no action involving the individual's conduct as an athlete agent
11 is pending against the individual or the individual's registration
12 in any state.

13 F. A certificate of registration or renewal of registration
14 under the Revised Uniform Athlete Agents Act is valid for two (2)
15 years.

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 823.7 of Title 70, unless there
18 is created a duplication in numbering, reads as follows:

19 SUSPENSION, REVOCATION OR REFUSAL TO RENEW REGISTRATION.

20 A. The Secretary of State may limit, suspend, revoke or refuse
21 to renew a registration of an individual registered under subsection
22 A of Section 6 of this act for conduct that would have justified
23 refusal to issue a certificate of registration under subsection B of
24 Section 6 of this act.

1 B. The Secretary of State may suspend or revoke the
2 registration of an individual registered under subsection C of
3 Section 5 of this act or renewed under subsection E of Section 6 of
4 this act for any reason for which the Secretary of State could have
5 refused to grant or renew registration or for conduct that would
6 justify refusal to issue a certificate of registration under
7 subsection B of Section 6 of this act.

8 SECTION 8. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 823.8 of Title 70, unless there
10 is created a duplication in numbering, reads as follows:

11 TEMPORARY REGISTRATION. The Secretary of State may issue a
12 temporary certificate of registration as an athlete agent while an
13 application for registration or renewal of registration is pending.

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 823.9 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 REGISTRATION AND RENEWAL FEES.

18 A. An application for registration or renewal of registration
19 as an athlete agent must be accompanied by a fee in the following
20 amount:

21 1. One Thousand Dollars (\$1,000.00) for an initial application
22 for registration;

23 2. One Thousand Dollars (\$1,000.00) for registration based on a
24 certificate of registration issued by another state;

1 3. One Thousand Dollars (\$1,000.00) for an application for
2 renewal of registration; or

3 4. One Thousand Dollars (\$1,000.00) for renewal of registration
4 based on a renewal of registration in another state.

5 B. Any registration in this state as an athlete agent under
6 prior law which has not expired before January 1, 2018, shall
7 continue to be valid until the date the registration expires.

8 C. All registration fees collected pursuant to this section
9 shall be deposited in the Revolving Fund for the Office of the
10 Secretary of State.

11 SECTION 10. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 823.10 of Title 70, unless there
13 is created a duplication in numbering, reads as follows:

14 REQUIRED FORM OF AGENCY CONTRACT.

15 A. An agency contract must be in a record signed by the
16 parties.

17 B. An agency contract must contain:

18 1. A statement that the athlete agent is registered as an
19 athlete agent in this state and a list of any other states in which
20 the agent is registered as an athlete agent;

21 2. The amount and method of calculating the consideration to be
22 paid by the student athlete for services to be provided by the agent
23 under the contract and any other consideration the agent has
24

1 received or will receive from any other source for entering into the
2 contract or providing the services;

3 3. The name of any person not listed in the agent's application
4 for registration or renewal of registration which will be
5 compensated because the athlete signed the contract;

6 4. A description of any expenses the athlete agrees to
7 reimburse;

8 5. A description of the services to be provided to the athlete;

9 6. The duration of the contract; and

10 7. The date of execution.

11 C. Subject to subsection G of this section, an agency contract
12 must contain a conspicuous notice in boldface type and in
13 substantially the following form:

14 WARNING TO STUDENT ATHLETE

15 IF YOU SIGN THIS CONTRACT:

16 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
17 ATHLETE IN YOUR SPORT;

18 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN SEVENTY-TWO (72)
19 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED
20 ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST,
21 BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR
22 THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND
23 CONTACT INFORMATION OF THE ATHLETE AGENT; AND

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

4 D. An agency contract must be accompanied by a separate record
5 signed by the student athlete or, if the athlete is a minor, the
6 parent or guardian of the athlete acknowledging that signing the
7 contract may result in the loss of the athlete's eligibility to
8 participate in the athlete's sport.

9 E. A student athlete or, if the athlete is a minor, the parent
10 or guardian of the athlete may void an agency contract that does not
11 conform to this section. If the contract is voided, any
12 consideration received from the athlete agent under the contract to
13 induce entering into the contract is not required to be returned.

14 F. At the time an agency contract is executed, the athlete
15 agent shall give the student athlete or, if the athlete is a minor,
16 the parent or guardian of the athlete a copy in a record of the
17 contract and the separate acknowledgement required by subsection D
18 of this section.

19 G. If a student athlete is a minor, an agency contract must be
20 signed by the parent or guardian of the minor and the notice
21 required by subsection C of this section must be revised
22 accordingly.

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1 SECTION 11. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 823.11 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 NOTICE TO EDUCATIONAL INSTITUTION.

5 A. In this section, "communicating or attempting to
6 communicate" means contacting or attempting to contact by an in-
7 person meeting, a record or any other method that conveys or
8 attempts to convey a message.

9 B. Not later than seventy-two (72) hours after entering into an
10 agency contract or before the next scheduled athletic event in which
11 the student athlete may participate, whichever occurs first, the
12 athlete agent shall give notice in a record of the existence of the
13 contract to the athletic director of the educational institution at
14 which the athlete is enrolled or at which the agent has reasonable
15 grounds to believe the athlete intends to enroll.

16 C. Not later than seventy-two (72) hours after entering into an
17 agency contract or before the next scheduled athletic event in which
18 the student athlete may participate, whichever occurs first, the
19 athlete shall inform the athletic director of the educational
20 institution at which the athlete is enrolled that the athlete has
21 entered into an agency contract and the name and contact information
22 of the athlete agent.

23 D. If an athlete agent enters into an agency contract with a
24 student athlete and the athlete subsequently enrolls at an

1 educational institution, the agent shall notify the athletic
2 director of the institution of the existence of the contract not
3 later than seventy-two (72) hours after the agent knew or should
4 have known the athlete enrolled.

5 E. If an athlete agent has a relationship with a student
6 athlete before the athlete enrolls in an educational institution and
7 receives an athletic scholarship from the institution, the agent
8 shall notify the institution of the relationship not later than ten
9 (10) days after the enrollment if the agent knows or should have
10 known of the enrollment and:

11 1. The relationship was motivated in whole or part by the
12 intention of the agent to recruit or solicit the athlete to enter an
13 agency contract in the future; or

14 2. The agent directly or indirectly recruited or solicited the
15 athlete to enter an agency contract before the enrollment.

16 F. An athlete agent shall give notice in a record to the
17 athletic director of any educational institution at which a student
18 athlete is enrolled before the agent communicates or attempts to
19 communicate with:

20 1. The athlete or, if the athlete is a minor, a parent or
21 guardian of the athlete, to influence the athlete or parent or
22 guardian to enter into an agency contract; or

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1 2. Another individual to have that individual influence the
2 athlete or, if the athlete is a minor, the parent or guardian of the
3 athlete to enter into an agency contract.

4 G. If a communication or attempt to communicate with an athlete
5 agent is initiated by a student athlete or another individual on
6 behalf of the athlete, the agent shall notify in a record the
7 athletic director of any educational institution at which the
8 athlete is enrolled. The notification must be made not later than
9 ten (10) days after the communication or attempt.

10 H. An educational institution that becomes aware of a violation
11 of the Revised Uniform Athlete Agents Act by an athlete agent shall
12 notify the Secretary of State and any professional league or players
13 association with which the institution is aware the agent is
14 licensed or registered of the violation.

15 SECTION 12. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 823.12 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 STUDENT ATHLETE'S RIGHT TO CANCEL.

19 A. A student athlete or, if the athlete is a minor, the parent
20 or guardian of the athlete may cancel an agency contract by giving
21 notice in a record of cancellation to the athlete agent not later
22 than fourteen (14) days after the contract is signed.

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

4 C. If a student athlete, parent or guardian cancels an agency
5 contract, the athlete, parent or guardian is not required to pay any
6 consideration under the contract or return any consideration
7 received from the athlete agent to influence the athlete to enter
8 into the contract.

9 SECTION 13. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 823.13 of Title 70, unless there
11 is created a duplication in numbering, reads as follows:

12 REQUIRED RECORDS.

13 A. An athlete agent shall create and retain for five (5) years
14 records of the following:

15 1. The name and address of each individual represented by the
16 agent;

17 2. Each agency contract entered into by the agent; and

18 3. The direct costs incurred by the agent in the recruitment or
19 solicitation of each student athlete to enter into an agency
20 contract.

21 B. Records described in subsection A of this section are open
22 to inspection by the Secretary of State during normal business
23 hours.

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1 SECTION 14. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 823.14 of Title 70, unless there
3 is created a duplication in numbering, reads as follows:

4 PROHIBITED CONDUCT.

5 A. An athlete agent with the intent to influence a student
6 athlete or, if the athlete is a minor, a parent or guardian of the
7 athlete to enter into an agency contract may not take any of the
8 following actions or encourage any other individual to take, or
9 assist any other individual in taking, any of the following actions
10 on behalf of the agent:

11 1. Give materially false or misleading information or make a
12 materially false promise or representation;

13 2. Furnish anything of value to the athlete before the athlete
14 enters into the contract; or

15 3. Furnish anything of value to an individual other than the
16 athlete or another registered athlete agent.

17 B. An athlete agent may not intentionally do any of the
18 following or encourage any other individual to do any of the
19 following on behalf of the agent:

20 1. Initiate contact, directly or indirectly, with a student
21 athlete or, if the athlete is a minor, a parent or guardian of the
22 athlete, to recruit or solicit the athlete, parent or guardian to
23 enter an agency contract unless registered under the Revised Uniform
24 Athlete Agents Act;

1 2. Fail to create or retain or to permit inspection of the
2 records required by Section 13 of this act;

3 3. Fail to register when required by Section 4 of this act;

4 4. Provide materially false or misleading information in an
5 application for registration or renewal of registration;

6 5. Predate or postdate an agency contract; or

7 6. Fail to notify a student athlete or, if the athlete is a
8 minor, a parent or guardian of the athlete, before the athlete,
9 parent or guardian signs an agency contract for a particular sport,
10 that the signing may make the athlete ineligible to participate as a
11 student athlete in that sport.

12 SECTION 15. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 823.15 of Title 70, unless there
14 is created a duplication in numbering, reads as follows:

15 CRIMINAL PENALTY.

16 A. An athlete agent who violates Section 14 of this act is
17 guilty of a misdemeanor and, upon conviction, shall be subject to a
18 fine of not less than Ten Thousand Dollars (\$10,000.00) and not more
19 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or to
20 imprisonment not to exceed one (1) year, or to both such fine and
21 imprisonment.

22 B. An athlete agent who violates Section 14 of this act upon a
23 second or subsequent conviction shall be guilty of a felony and
24 subject to a fine of not less than Fifty Thousand Dollars

1 (\$50,000.00) and not more than Five Hundred Thousand Dollars
2 (\$500,000.00), or to imprisonment not to exceed three (3) years, or
3 to both such fine and imprisonment. All prior convictions in any
4 state of acts that would constitute a violation under Section 14 of
5 this act shall also constitute prior convictions under this section.

6 C. Fifty percent (50%) of all fines collected pursuant to this
7 section shall be deposited in the Attorney General's Law Enforcement
8 Revolving Fund created in Section 19.1 of Title 74 of the Oklahoma
9 Statutes.

10 SECTION 16. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 823.16 of Title 70, unless there
12 is created a duplication in numbering, reads as follows:

13 CIVIL REMEDY.

14 A. An educational institution or student athlete may bring an
15 action for damages against an athlete agent if the institution or
16 athlete is adversely affected by an act or omission of the agent in
17 violation of the Revised Uniform Athlete Agents Act. An educational
18 institution or student athlete is adversely affected by an act or
19 omission of the agent only if, because of the act or omission, the
20 institution or an individual who was a student athlete at the time
21 of the act or omission and enrolled in the institution:

22 1. Is suspended or disqualified from participation in an
23 interscholastic or intercollegiate sports event by or under the
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1 rules of a state or national federation or association that promotes
2 or regulates interscholastic or intercollegiate sports; or

3 2. Suffers financial damage.

4 B. A plaintiff that prevails in an action under this section
5 may recover actual damages, exemplary damages, costs and reasonable
6 attorney fees. An athlete agent found liable under this section
7 forfeits any right of payment for anything of benefit or value
8 provided to the student athlete and shall refund any consideration
9 paid to the agent by or on behalf of the athlete.

10 C. A violation of the Revised Uniform Athlete Agents Act shall
11 constitute a deceptive trade practice for purposes of the Oklahoma
12 Deceptive Trade Practices Act and, in addition to the remedies
13 provided for in this section, shall be subject to the remedies
14 provided in Section 54 of Title 78 of the Oklahoma Statutes.

15 SECTION 17. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 823.17 of Title 70, unless there
17 is created a duplication in numbering, reads as follows:

18 CIVIL PENALTY. The Secretary of State may assess a civil
19 penalty against an athlete agent not to exceed Fifty Thousand
20 Dollars (\$50,000.00) for a violation of the Revised Uniform Athlete
21 Agents Act.

22 SECTION 18. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 823.18 of Title 70, unless there
24 is created a duplication in numbering, reads as follows:

1 UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and
2 construing this uniform act, consideration must be given to the need
3 to promote uniformity of the law with respect to its subject matter
4 among states that enact it.

5 SECTION 19. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 823.19 of Title 70, unless there
7 is created a duplication in numbering, reads as follows:

8 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
9 COMMERCE ACT. The Revised Uniform Athlete Agents Act modifies,
10 limits or supersedes the Electronic Signatures in Global and
11 National Commerce Act, 15 U.S.C., Section 7001 et seq., but does not
12 modify, limit or supersede Section 101(c) of that act, 15 U.S.C.,
13 Section 7001(c), or authorize electronic delivery of any of the
14 notices described in Section 103(b) of that act, 15 U.S.C., Section
15 7003(b).

16 SECTION 20. AMENDATORY 78 O.S. 2011, Section 53, is
17 amended to read as follows:

18 Section 53. A. A person engages in a deceptive trade practice
19 when in the course of business, vocation, or occupation, the person:

- 20 1. Passes off goods or services as those of another;
- 21 2. Knowingly makes a false representation as to the source,
22 sponsorship, approval, or certification of goods or services;
- 23 3. Knowingly makes a false representation as to affiliation,
24 connection, association with, or certification by another;

- 1 4. Uses deceptive representations or designations of geographic
2 origin in connection with goods or services;
- 3 5. Knowingly makes a false representation as to the
4 characteristics, ingredients, uses, benefits or quantities of goods
5 or services or a false representation as to the sponsorship,
6 approval, status, affiliation, or connection of a person therewith;
- 7 6. Represents that goods are original or new if they are not;
- 8 7. Represents that goods or services are a particular standard,
9 quality, or grade, or that goods are a particular style or model, if
10 they are another;
- 11 8. Disparages the goods, services, or business of another by
12 false or misleading representation of fact;
- 13 9. Advertises goods or services which differ from those offered
14 for sale in the advertisements;
- 15 10. Advertises goods or services with intent not to supply
16 reasonably expectable public demand, unless the advertisement
17 discloses a limitation of quantity;
- 18 11. Makes false or misleading statements of fact concerning the
19 reasons for, existence of, or amounts of price reductions;
- 20 12. Advertises the price of an item after deduction of a rebate
21 unless the actual selling price is advertised and clear and
22 conspicuous notice is given in the advertisement that a mail-in
23 rebate is required to achieve the lower net price;
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1 13. Misrepresents the geographic location of the supplier by
2 listing a fictitious business name or an assumed business name in a
3 local telephone directory if:

- 4 a. the name misrepresents the geographic location of the
5 supplier,
- 6 b. the listing fails to identify the locality and state
7 of the business of the supplier,
- 8 c. calls to the local telephone number are routinely
9 forwarded or otherwise transferred to a business
10 location that is outside the calling area covered by
11 the local telephone directory, or
- 12 d. the business location of the supplier is located in a
13 county that is not contiguous to a county in the
14 calling area covered by the local telephone directory;

15 ~~or~~

16 14. Lists a fictitious business name or assumed business name
17 in a directory assistance database if:

- 18 a. the name misrepresents the geographic location of the
19 supplier,
- 20 b. calls to the local telephone number are routinely
21 forwarded or otherwise transferred to a business
22 location that is outside the local calling area, or

1 c. the business location of the supplier is located in a
2 county that is not contiguous to a county in the local
3 calling area; or

4 15. Violates any provision of the Revised Uniform Athlete
5 Agents Act.

6 B. Evidence that a person has engaged in a deceptive trade
7 practice shall be prima facie evidence of intent to injure
8 competitors and to destroy or substantially lessen competition.

9 C. The deceptive trade practices listed in this section are in
10 addition to and do not limit the types of unfair trade practices
11 actionable at common law or under other statutes of this state.

12 SECTION 21. AMENDATORY 78 O.S. 2011, Section 54, is
13 amended to read as follows:

14 Section 54. A. Any person damaged or likely to be damaged by a
15 deceptive trade practice of another may maintain an action in any
16 court of equitable jurisdiction to prevent, restrain or enjoin such
17 deceptive trade practice. Proof of actual monetary damages, loss of
18 profits or intent shall not be required. If in such action damages
19 are alleged and proved, the plaintiff, in addition to injunctive
20 relief, shall be entitled to recover from the defendant the actual
21 damages sustained by the person.

22 B. With respect to the deceptive trade practices described in
23 paragraphs 13 ~~and~~, 14 and 15 of subsection A of Section 53 of this
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1 title, the Attorney General or a district attorney of this state is
2 authorized to bring actions seeking the following relief:

3 1. Injunctions directed against persons engaged in such
4 deceptive trade practices;

5 2. Recovery of the money unlawfully received from aggrieved
6 consumers by persons engaged in the deceptive trade practices to be
7 held in escrow for distribution to the aggrieved consumers; and

8 3. Recovery by the state of the reasonable expenses incurred in
9 the investigation of the deceptive trade practices.

10 C. In any action instituted under the provisions of ~~this act~~
11 the Oklahoma Deceptive Trade Practices Act, the court may, in its
12 discretion, award reasonable ~~attorneys'~~ attorney fees to the
13 prevailing party. If in any such action the court finds either (1)
14 that the defendant has willfully engaged in a deceptive trade
15 practice or (2) that the plaintiff has acted in bad faith in
16 instituting the action, the court shall award reasonable ~~attorneys'~~
17 attorney fees to the prevailing party.

18 D. The relief provided for in this section is in addition to
19 and not in exclusion of remedies otherwise available against the
20 same conduct pursuant to the common law or other statutes of this
21 state.

22 E. Any duly organized and existing trade association, whether
23 incorporated or not, is hereby authorized to institute and prosecute
24 a suit or suits for injunctive relief hereunder as the real party in

1 interest, for or on behalf of one or more of its members, when a
2 deceptive trade practice directly or indirectly affects or threatens
3 to affect or injure such member or members.

4 SECTION 22. REPEALER 70 O.S. 2011, Sections 821.81,
5 821.82, 821.83, 821.84, 821.85, as amended by Section 1, Chapter
6 173, O.S.L. 2012, 821.86, 821.87, 821.88, 821.89, 821.90, 821.91,
7 821.92, 821.93, 821.94, 821.95, 821.96, 821.97, 821.98 and 821.99
8 (70 O.S. Supp. 2018, Section 821.85), are hereby repealed.

9 SECTION 23. This act shall become effective January 1, 2020.

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
11 April 2, 2019 - DO PASS

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