

# ASSEMBLY, No. 2525

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED OCTOBER 5, 1998

**Sponsored by:**

**Assemblyman LEROY J. JONES, JR.**

**District 27 (Essex)**

### **SYNOPSIS**

"Athlete Agents Act."

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning athlete agents and supplementing Title 45 of the  
2 Revised Statutes.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. This act shall be known and may be cited as the "Athlete Agents  
8 Act."

9  
10 2. As used in this act:

11 "Agent contract" means any contract or agreement pursuant to  
12 which a person authorizes or empowers an athlete agent to negotiate  
13 or solicit on behalf of that person with one or more professional  
14 sports teams or organizations for the employment of the person by one  
15 or more professional sports teams or organizations, or to negotiate or  
16 solicit on behalf of the person for the employment of the person as a  
17 professional athlete.

18 "Athlete agent" means any person who, directly or indirectly,  
19 recruits or solicits an athlete to enter into any agent contract,  
20 endorsement contract, financial services contract or professional sports  
21 services contract, or for compensation procures, offers, promises,  
22 attempts or negotiates to obtain employment for any person with a  
23 professional sports team or organization or as a professional athlete.

24 Athlete agent does not include a person licensed as an attorney,  
25 dealer in securities, financial planner, insurance agent, real estate  
26 broker or sales agent, or tax consultant or other professional person  
27 when the professional person offers or provides the type of services  
28 customarily provided by that person, except and solely to the extent  
29 that the professional person also recruits or solicits an athlete to enter  
30 into any agent contract, endorsement contract or professional sports  
31 services contract, or for compensation procures, offers, promises,  
32 attempts or negotiates to obtain employment for any person with a  
33 professional sports team or organization or as a professional athlete.

34 Athlete agent does not include any person acting solely on behalf  
35 of a professional sports team or organization.

36 Athlete agent does not include an individual acting solely for his or  
37 her spouse, child or grandchild.

38 "Employment as a professional athlete" includes employment  
39 pursuant to an endorsement contract or a professional sports services  
40 contract.

41 "Endorsement contract" means any contract or agreement pursuant  
42 to which a person is employed or receives remuneration for any value  
43 or utility that the person may have because of publicity, reputation,  
44 fame or following obtained because of athletic ability or performance.

45 "Financial services" means the making or execution of an

1 investment or other financial decision, or counseling as to a financial  
2 decision.

3 "Negotiate" includes negotiations for any contact on behalf of any  
4 athlete with a professional sports team or organization or on behalf of  
5 any person with any other person who employs or potentially may  
6 employ the person as a professional athlete, regardless of whether the  
7 contact is made in person, in writing, electronically, through  
8 representatives or employees, or in any other manner. "Negotiate"  
9 also includes being present during any discussion of an endorsement  
10 contract or professional sports services contract with representatives  
11 of the professional sports team or organization or potential or actual  
12 employer.

13 "Person" means any individual, company, corporation, association,  
14 partnership, limited liability company, or its agent or employee.

15 "Professional sports services contract" means any contract or  
16 agreement pursuant to which a person is employed or agrees to render  
17 services as a player on a professional sports team or organization or  
18 as a professional athlete.

19 "Student athlete" means any individual admitted to or enrolled as  
20 a student in an elementary or secondary school, college, university, or  
21 other educational institution if the student participates, or has  
22 informed the institution of an intention to participate, as an athlete in  
23 a sports program where the sports program is engaged in competition  
24 with other educational institutions. "Student athlete" does not include  
25 any person who has entered into a valid agent contract, a valid  
26 endorsement contract, or a valid professional sports services contract.  
27 "Student athlete" does not include any student of a college or  
28 university whose eligibility to participate in an intercollegiate sport has  
29 terminated, as determined by the governing body of the state or  
30 national association for the promotion and regulation of intercollegiate  
31 athletics of which the student's college or university is a member.  
32

33 3. An agent contract shall be in writing and shall include a  
34 description of the types of services to be performed and a schedule of  
35 the fees to be charged under the contract.  
36

37 4. A trust fund shall be established when an athlete agent is the  
38 recipient of an athlete's salary. An athlete agent who receives any  
39 payment on behalf of an athlete shall immediately deposit the payment  
40 in a trust fund account maintained by the athlete agent in a State or  
41 federally chartered bank, savings bank, savings and loan association or  
42 credit union.  
43

44 5. a. Every athlete agent shall maintain records that include the  
45 name and address of each person employing the athlete agent and the  
46 amount of the fee received from that person.

1       b. No athlete agent or athlete agent's representative or employee  
2 shall make any false entry in the records. All records required by this  
3 section shall be maintained for at least seven years.

4       c. This section does not apply to any business of the athlete agent  
5 other than the athlete agent business.  
6

7       6. No athlete agent shall have an ownership or financial interest in  
8 any entity that is directly involved in the same sport as a person with  
9 whom the athlete agent has entered into an agent contract, or for  
10 whom the athlete agent is attempting to negotiate an endorsement  
11 contract, financial services contract or professional sports service  
12 contract, or for whom the athlete agent provides advice concerning  
13 potential or actual employment as a professional athlete.  
14

15       7. If an athlete agent or athlete agent's representative or employee  
16 provides financial services to a professional athlete or student athlete  
17 or advises the athlete concerning investment of funds, the athlete agent  
18 shall disclose to the athlete any ownership interest the athlete agent,  
19 representative or employee has in any entity regarding which the  
20 athlete agent, representative or employee is providing financial  
21 services or giving advice, and any commission the athlete agent,  
22 representative or employee will receive from the athlete's investment.  
23

24       8. No athlete agent shall knowingly enter into a contract containing  
25 any term or condition that, if complied with, would be in violation of  
26 law, or attempt to fill an order for help to be employed in violation of  
27 the law.  
28

29       9. No athlete agent or athlete agent's representative or employee  
30 shall publish or cause to be published any false, fraudulent or  
31 misleading information, representation, notice or advertisement. No  
32 athlete agent or athlete agent's representative or employee shall give  
33 any false information or make any false promises or representations  
34 concerning any employment to any person.  
35

36       10. All forms of advertising used by an athlete agent shall include  
37 the name and business address of the athlete agent.  
38

39       11. No athlete agent shall knowingly secure employment for a  
40 person in any place where a strike, lockout or other labor trouble  
41 exists, without notifying the person of those conditions.  
42

43       12. No athlete agent shall divide fees with or receive compensation  
44 from a professional sports league, team or other organization or its  
45 representative or employee, or offer or allow any full-time employee  
46 of a union or players' association connected with professional sports

1 to own or participate in any of the revenues of the athlete agent.

2  
3 13. No athlete agent shall negotiate or enter into any postdated  
4 agent contract, endorsement contract or professional sports services  
5 contract or any agent contract, endorsement contract or professional  
6 sports services contract that purports to or takes effect at a future  
7 time.

8  
9 14. No athlete agent or athlete agent's representative or employee  
10 shall, directly or indirectly, offer or provide money or any other thing  
11 of benefit or value to a student athlete.

12  
13 15. a. Except as otherwise provided in this section, no athlete  
14 agent or athlete agent's representative or employee shall make or  
15 continue any contact, whether in person, in writing, electronically or  
16 in any other manner, with any student athlete, or any student athlete's  
17 spouse, parent, grandparent, child, sibling, aunt, uncle or first cousin,  
18 or any of the preceding persons for whom the relationship has been  
19 established by marriage, or any person who resides in the same place  
20 as the student athlete, or any representative of any of these persons.

21 b. An athlete agent or athlete agent's representative or employee  
22 may send a student athlete, or any of the other persons described in  
23 subsection a. of this section, written materials, provided that the  
24 athlete agent previously has sent, or simultaneously sends, an identical  
25 copy of the materials to the principal, president or other chief  
26 administrator of the elementary or secondary school, college,  
27 university or other educational institution to which the student athlete  
28 has been admitted or in which the student athlete is enrolled.

29 c. If a student athlete, or any of the other persons described in  
30 subsection a. of this section, initiates contact with an athlete agent or  
31 athlete agent's representative or employee, the athlete agent,  
32 representative or employee may continue the contact and make new  
33 contacts with that person. No later than the first regular business day  
34 after that person first initiates contact, the athlete agent shall notify in  
35 writing the principal, president or other chief administrator of the  
36 elementary or secondary school, college, university or other  
37 educational institution to which the student athlete has been admitted  
38 or in which the student athlete is enrolled, of that contact. The  
39 notification shall describe the nature of the contact.

40 d. This section shall not apply to any contact between an athlete  
41 agent or athlete agent's representative or employee and a student  
42 athlete or any of the other persons described in subsection a. of this  
43 section, if and solely to the extent that the contact is initiated by an  
44 elementary or secondary school, college, university or other  
45 educational institution to which the student athlete has been admitted  
46 or in which the student athlete is enrolled.

1       16. No athlete agent or athlete agent's representative or employee  
2 shall offer or provide money or anything of benefit or value, including  
3 but not limited to fees or reduced price legal services, to any  
4 elementary or secondary school, college, university or other  
5 educational institution, or any representative or employee of any such  
6 educational institution in return for the referral of any clients or  
7 initiation of any contact described in subsection a. of section 14 of this  
8 act.

9  
10       17. An athlete agent and a student athlete who enter into an agent  
11 contract, endorsement contract or professional sports services contract  
12 shall provide written notice of the contract to the principal, president  
13 or other chief administrator of the elementary or secondary school,  
14 college, university or other educational institution to which the student  
15 athlete has been admitted or is enrolled. The athlete agent shall  
16 provide the notice in writing within 48 hours of entering into the  
17 contract. The student athlete shall provide the notice before the  
18 student athlete practices for or participates in any interscholastic or  
19 intercollegiate sports event or within 72 hours after entering into the  
20 contract, whichever occurs first.

21  
22       18. Within 15 days after the date a student athlete enters into an  
23 agent contract, endorsement contract or professional sports services  
24 contract, the student athlete may rescind the contract by giving written  
25 notice to the athlete agent or other party to the contract, of the student  
26 athlete's desire to cancel the contract. The student athlete may not  
27 under any circumstances waive the right under this section to rescind  
28 the contract.

29  
30       19. Every agent contract, endorsement contract or professional  
31 sports services contract entered into by a student athlete shall contain,  
32 in close proximity to the signature of the student athlete, a notice in at  
33 least 10-point boldface type stating:

34       "WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN  
35 THIS CONTRACT, YOU LIKELY WILL IMMEDIATELY AND  
36 PERMANENTLY LOSE YOUR ELIGIBILITY TO COMPETE IN  
37 INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS. YOU  
38 MUST GIVE THE PRINCIPAL, PRESIDENT OR OTHER CHIEF  
39 ADMINISTRATOR OF YOUR EDUCATIONAL INSTITUTION  
40 WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS  
41 CONTRACT WITHIN 72 HOURS, OR BEFORE YOU PRACTICE  
42 FOR OR PARTICIPATE IN ANY INTERSCHOLASTIC OR  
43 INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS  
44 FIRST. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE  
45 READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY  
46 CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE

1 AGENT OR OTHER PARTY TO THIS CONTRACT, IN WRITING,  
2 OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH  
3 DAY AFTER THE DATE YOU SIGN THIS CONTRACT.  
4 HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE  
5 FEDERATION OR ASSOCIATION TO WHICH YOUR  
6 EDUCATIONAL INSTITUTION BELONGS MAY NOT RESTORE  
7 YOUR ELIGIBILITY."

8  
9 20. a. Any professional athlete or any student athlete, or any  
10 elementary or secondary school, college, university or other  
11 educational institution or any league, conference, association or  
12 federation of the preceding educational institution, or any other person  
13 may bring a civil action for recovery of damages from an athlete agent,  
14 if that professional athlete, the student athlete, that institution, any  
15 member of that league, conference, association or federation, or that  
16 other person is adversely affected by the acts of the athlete agent or of  
17 the athlete agent's representative or employee in violation of this act.  
18 A student athlete is presumed to be adversely affected by the acts of  
19 an athlete agent, representative or employee in violation of this act if,  
20 because of those acts, the student athlete is suspended or disqualified  
21 from participation in one or more interscholastic or intercollegiate  
22 sports events by or pursuant to the rules of a State or national  
23 federation or association for the promotion and regulation of  
24 interscholastic or intercollegiate sports, or suffers financial damage, or  
25 suffers both suspension or disqualification and financial damage. An  
26 educational institution is presumed to be adversely affected by the acts  
27 of an athlete agent of an athlete agent's representative or employee in  
28 violation of this act if, because of those acts, the educational  
29 institution or one or more student athletes admitted to or enrolled in  
30 the educational institution, is suspended or disqualified from  
31 participation in one or more interscholastic or intercollegiate athletic  
32 events by or pursuant to the rules of a State or national federation or  
33 association for the promotion and regulation of interscholastic or  
34 intercollegiate sports, or suffers financial damage, or suffers both  
35 suspension or disqualification and financial damage.

36 b. A plaintiff who prevails in a civil action brought under this  
37 section may recover actual damages, or \$50,000, whichever is higher;  
38 punitive damages; court costs; and reasonable attorney's fees. An  
39 athlete agent found liable under this section also shall forfeit any right  
40 of repayment for anything of benefit or value provided to a student  
41 athlete, and shall refund any consideration paid to that athlete agent by  
42 or on behalf of the student athlete.

43  
44 21. Every athlete agent shall maintain an agent for service of  
45 process in this State.

1       22. a. Every athlete agent shall provide security for claims against  
2 the athlete agent or the athlete agent's representative or employee  
3 based upon acts, errors or omissions arising out of the business of the  
4 athlete agent through the following:

5       (1) A policy of insurance against liability imposed on or against the  
6 agent by law for damages arising out of claims in an amount for each  
7 claim of not less than \$100,000.

8       (2) In trust or bank escrow, cash, bank certificates of deposit,  
9 United States Treasury obligations, bank letters of credit or bonds of  
10 insurance companies as security for payment of liabilities imposed by  
11 law for damages arising out of all claims in an amount of not less than  
12 \$100,000.

13  
14       23. a. Any agent contract that is negotiated by an athlete agent  
15 who fails to comply with this act is void and unenforceable.

16       b. No person shall owe an athlete agent any money or other  
17 consideration pursuant to an endorsement contract, financial services  
18 contract or professional sports services contract negotiated by the  
19 athlete agent if the athlete agent fails to comply with this act. The  
20 athlete agent shall refund any money or other consideration paid  
21 pursuant to that contract.

22  
23       24. An athlete agent or athlete agent's representative or employee  
24 who violates any provision of this act is guilty of a crime of the fourth  
25 degree. The court may suspend or revoke the privilege of any person  
26 convicted of a violation of this act to conduct the business of athlete  
27 agent.

28  
29       25. This act shall take effect immediately.

30  
31  
32                               STATEMENT

33  
34       This bill regulates those who recruit or solicit athletes to enter into  
35 contracts with professional sports teams or into contracts for  
36 employment as professional athletes. The bill requires all contracts  
37 with athlete agents to be in writing and contain a schedule of fees,  
38 prohibits athlete agents from entering into contracts containing  
39 provisions that would violate any law, and prohibits postdated  
40 contracts.

41       The bill also addresses athlete agent contracts with student athletes.  
42 The bill defines a student athlete as an individual admitted to or  
43 enrolled as a student in an elementary or secondary school, college,  
44 university or other educational institution if the student participates,  
45 or has informed the institution of an intention to participate, as an  
46 athlete in a sports program where the sports program is engaged in



1 competition with other educational institutions. The bill prohibits  
2 athlete agents from directly or indirectly offering or providing money  
3 or any other thing of benefit or value to a student athlete. The bill also  
4 prohibits contact between a student athlete and an athlete agent unless  
5 the contact was initiated by the student athlete or the school to which  
6 the student athlete has been admitted or in which the student is  
7 enrolled. The bill provides that a student athlete who enters into a  
8 contract with an athlete agent may rescind the contract within 15 days  
9 after entering the contract.

10 The bill requires a trust fund to be established in a State or federally  
11 chartered financial institution when an athlete agent is the recipient of  
12 an athlete's salary. The athlete agent must also maintain records for  
13 seven years concerning the amount of fees received and athletes  
14 represented, and is prohibited from making false entries in the records.

15 The bill prohibits an athlete agent from having an ownership or  
16 financial interest in an entity that is directly involved in the same sport  
17 as a person with whom the athlete agent has entered into an agent  
18 contract, or for whom the athlete agent is attempting to negotiate an  
19 endorsement contract, financial services contract or professional sports  
20 contract, or for whom the athlete agent provides advice concerning  
21 potential or actual employment as a professional athlete. The bill also  
22 prohibits an athlete agent from dividing fees or receiving compensation  
23 from a professional sports team or other organization, or allowing any  
24 full-time employee of a union or players' association connected with  
25 professional sports to own or participate in any of the revenues of the  
26 athlete agent.

27 The bill provides that every athlete agent must provide security for  
28 claims against the athlete agent based upon acts, errors or omissions  
29 arising out of the business of the athlete agent through an insurance  
30 policy against liability in an amount of not less than \$100,000.

31 Finally, the bill provides that any agent contract that is negotiated  
32 by an athlete agent who fails to comply with the bill's provisions is  
33 void and unenforceable, and any athlete agent or athlete agent's  
34 representative or employee who violates the bill's provisions is guilty  
35 of a crime of the fourth degree.