

## **ATHLETE AGENT CONTRACT ACT**

**House Bill 4453**

**Sponsor: Rep. Derrick Hale**

**Committee: Family and Civil Law**

**Complete to 7-8-99**

### **A SUMMARY OF HOUSE BILL 4453 AS INTRODUCED 4-13-99**

House Bill 4453 would create the Athlete Agent Contract Act, which would establish standards for contracts between athletes and agents and would require agents to make certain disclosures in their dealings with athletes. An "athlete agent" would be defined as a person who, either directly or indirectly and for compensation, recruited or solicited an athlete to enter into an agent contract; entered into an agent contract with an athlete; and/or attempted to represent or did represent an athlete in soliciting, negotiating, or renegotiating a professional sports services contract. (A "professional sports services contract" would be an agreement under which a person received payment as a player on a professional sports team or as a participant in a professional sports event.) Members of a student athlete's immediate family would not be considered agents under the bill. An attorney who gave an athlete legal advice concerning a proposed contract would be exempt from the bill if the attorney did not represent the athlete in negotiating or soliciting a professional sports services contract. The bill would establish civil remedies and criminal penalties for violations. It would take effect April 1, 2000. A more detailed description follows.

Disclosures, inspections. At least seven days before the date of execution of an agent contract, an agent would have to furnish the athlete with a disclosure statement as prescribed by the bill. The disclosure statement would have to contain information regarding the agent's educational background; professional licenses or certifications held; work experience from the age of 18 on; any misdemeanor and felony convictions; the names of any professional sports teams in which the agent, any member of his or her immediate family, or any business affiliate had an ownership interest; and any sanctions imposed upon or disciplinary actions taken against the agent or any athlete, professional sports team, or institution of higher education as a result of the agent's conduct. If the agent has represented three or more other athletes, the statement would also have to include the names of at least three of those athletes. If the agent was a corporation, the partnership or legal entity other than an individual, then the disclosure statement would have to contain this information with regard each owner, officer, or partner. If the agent was a corporation, partnership or legal entity other than an individual, the disclosure would have to contain the misdemeanor and felony convictions of any shareholder who owned ten percent or more of the company's stock. The disclosure statement would also have to contain a certification signed by the agent or, where the agent was not an individual -- an owner, officer or partner, stating that the information provided was true and complete to the best of the his or her knowledge. [Note: The requirement regarding work history for individual agents specifies that the agent would have to supply dates of employment, job descriptions, and the name, address, and telephone number of each employer. Where the agent is not an individual, the bill contains only a general requirement that each owner, officer, and partner provide employment history. ]

In addition to the information generally required, an agent who sought authority to make investments for clients would also be required to disclose information regarding the agent's

experience in business management, investing, investment counseling, or brokerage services; the date of any bankruptcy petition filed by the agent or by or on behalf of an athlete represented by the agent; and the names of any business entities where the agent, his or her immediate family, or his or her business affiliates had an ownership interest of five percent or more. An agent would have to notify an athlete within 30 days of any change in business address. Upon 48 hours notice, a professional athlete could audit the books and records the agent maintained on the athlete.

**Contracts.** An agent contract would have to be written in the language which the athlete spoke fluently, or, for multi-lingual athletes, the language of the athlete's choice. A copy of the proposed contract would be provided to the athlete at least seven business days before the date of execution of the contract. The contract would have to outline the agent's services and compensation as prescribed by the bill.

Each athlete-agent contract would have to include a notice informing the athlete that he or she would have three business days after the date of execution to cancel the contract without cause, together with a declaration for the athlete to sign and date in order to cancel the contract. Details on the agent's compensation, both in absolute terms and relative to the athlete's compensation, would have to be included in a form similar to one provided by the bill. The contract also would have to explain that the athlete had the right to examine the agent's books and records relating to the athlete, and that the athlete could sue within two years to void the contract and collect attorney fees and treble damages (see below). A contract would have to include a certification signed by the agent that all the information in the contract was true and complete to the best of his or her knowledge. At the time of execution of a contract, an agent would give an athlete a copy of the contract with an attached disclosure statement.

Within three days after execution of a contract an agent would have to give an athlete a copy of the contract and a statement of the amount and timing of all compensation the agent was to receive as a result of negotiating a professional sports services contract.

**Cancellation.** An athlete could cancel an agent contract without cause within three business days after the date of execution. An agent could not charge the athlete for any goods, services, or expenses attributable to that three-day period.

**Civil remedies, voiding of contract.** Within two years after the date of execution of an agent contract, an athlete could bring a civil action to void the contract for violation of the bill. The court would have to award actual attorney fees to the athlete if he or she prevailed. Upon proof of a willful violation of the bill, the court could award treble damages to the athlete.

**Criminal penalties.** An athlete agent who intentionally deceived an athlete into signing an agent contract would be guilty of a misdemeanor punishable by up to 90 days in jail, a fine of up to \$50,000, or both.

Analyst: W. Flory

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.