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State of Minnesota

Printed Page No. 236

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2363

- 03/13/2017 Authored by Swedzinski, Slocum and Rosenthal
- The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform
- 03/15/2018 Adoption of Report: Placed on the General Register as Amended
- Read for the Second Time
- 03/29/2018 Calendar for the Day
- Read for the Third Time
- Passed by the House and transmitted to the Senate
- 05/18/2018 Passed by the Senate and returned to the House
- 05/19/2018 Presented to Governor
- 05/29/2018 Governor Approval

1.1 A bill for an act

1.2 relating to commerce; enacting and modifying the Revised Uniform Athlete Agents

1.3 Act; amending Minnesota Statutes 2016, section 45.011, subdivision 1; proposing

1.4 coding for new law in Minnesota Statutes, chapter 81A; repealing Minnesota

1.5 Statutes 2016, sections 81A.01; 81A.02; 81A.04; 81A.05; 81A.06; 81A.07; 81A.10;

1.6 81A.11; 81A.12; 81A.13; 81A.14; 81A.19; 81A.20; 81A.21.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 ARTICLE 1

1.9 REVISED UNIFORM ATHLETE AGENTS ACT

1.10 Section 1. 81A.22] SHORT TITLE.

1.11 Sections 81A.22 to 81A.37 may be cited as the "Revised Uniform Athlete Agents Act."

1.12 Sec. 2. 81A.23] DEFINITIONS.

1.13 Subdivision 1. Scope. For the purposes of sections 81A.22 to 81A.37, the terms defined

1.14 in this section have the meanings given them.

1.15 Subd. 2. Agency contract. "Agency contract" means an agreement in which a student

1.16 athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional

1.17 sports services contract or endorsement contract.

1.18 Subd. 3. Athlete agent. (a) "Athlete agent" means an individual, whether or not registered

1.19 under sections 81A.22 to 81A.37, who:

1.20 (1) directly or indirectly recruits or solicits a student athlete to enter into an agency

1.21 contract or, for compensation, procures employment or offers, promises, attempts, or

2.1 negotiates to obtain employment for a student athlete as a professional athlete or member
2.2 of a professional sports team or organization;

2.3 (2) for compensation or in anticipation of compensation related to a student athlete's
2.4 participation in athletics;

2.5 (i) serves the athlete in an advisory capacity on a matter related to finances, business
2.6 pursuits, or career management decisions, unless the individual is an employee of an
2.7 educational institution acting exclusively as an employee of the institution for the benefit
2.8 of the institution; or

2.9 (ii) manages the business affairs of the athlete by providing assistance with bills,
2.10 payments, contracts, or taxes; or

2.11 (3) in anticipation of representing a student athlete for a purpose related to the athlete's
2.12 participation in athletics;

2.13 (i) gives consideration to the student athlete or another person;

2.14 (ii) serves the athlete in an advisory capacity on a matter related to finances, business
2.15 pursuits, or career management decisions; or

2.16 (iii) manages the business affairs of the athlete by providing assistance with bills,
2.17 payments, contracts, or taxes.

2.18 (b) The term does not include an individual who:

2.19 (1) acts solely on behalf of a professional sports team or organization; or

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

2.22 (i) also recruits or solicits the athlete to enter into an agency contract;

2.23 (ii) also, for compensation, procures employment or offers, promises, attempts, or
2.24 negotiates to obtain employment for the athlete as a professional athlete or member of a
2.25 professional sports team or organization; or

2.26 (iii) receives consideration for providing the services calculated using a different method
2.27 than for an individual who is not a student athlete.

2.28 Subd. 4. **Athletic director.** "Athletic director" means the individual responsible for
2.29 administering the overall athletic program of an educational institution or, if an educational
2.30 institution has separately administered athletic programs for male students and female
2.31 students, the athletic program for males or the athletic program for females, as appropriate.

3.1 Subd. 5. **Commissioner.** "Commissioner" means the commissioner of commerce.

3.2 Subd. 6. **Educational institution.** "Educational institution" includes a public or private
3.3 elementary school, secondary school, technical or vocational school, community college,
3.4 college, and university.

3.5 Subd. 7. **Endorsement contract.** "Endorsement contract" means an agreement under
3.6 which a student athlete is employed or receives consideration to use on behalf of the other
3.7 party any value that the athlete may have because of publicity, reputation, following, or
3.8 fame obtained because of athletic ability or performance.

3.9 Subd. 8. **Enrolled or enrolls.** "Enrolled" or "enrolls" means registered for courses and
3.10 attending athletic practice or class.

3.11 Subd. 9. **Intercollegiate sport.** "Intercollegiate sport" means a sport played at the
3.12 collegiate level for which eligibility requirements for participation by a student athlete are
3.13 established by a national association that promotes or regulates collegiate athletics.

3.14 Subd. 10. **Interscholastic sport.** "Interscholastic sport" means a sport played between
3.15 educational institutions that are not community colleges, colleges, or universities.

3.16 Subd. 11. **Licensed, registered, or certified professional.** "Licensed, registered, or
3.17 certified professional" means an individual licensed, registered, or certified as an attorney,
3.18 dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax
3.19 consultant, accountant, or member of a profession, other than that of athlete agent, who is
3.20 licensed, registered, or certified by the state or a nationally recognized organization that
3.21 licenses, registers, or certifies members of the profession on the basis of experience,
3.22 education, or testing.

3.23 Subd. 12. **Person.** "Person" means an individual, estate, business or nonprofit entity,
3.24 public corporation, government or governmental subdivision, agency, or instrumentality,
3.25 or other legal entity.

3.26 Subd. 13. **Professional sports services contract.** "Professional sports services contract"
3.27 means an agreement under which an individual is employed as a professional athlete or
3.28 agrees to render services as a player on a professional sports team or with a professional
3.29 sports organization.

3.30 Subd. 14. **Record.** "Record" means information that is inscribed on a tangible medium
3.31 or that is stored in an electronic or other medium and is retrievable in perceivable form.

3.32 Subd. 15. **Recruit or solicit.** "Recruit or solicit" means attempt to influence the choice
3.33 of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of

4.1 the athlete. The term does not include giving advice on the selection of a particular agent
4.2 in a family, coaching, or social situation unless the individual giving the advice does so
4.3 because of the receipt or anticipated receipt of an economic benefit, directly or indirectly,
4.4 from the agent.

4.5 Subd. 16. **Registration.** "Registration" means registration as an athlete agent under
4.6 sections 81A.22 to 81A.37.

4.7 Subd. 17. **Sign.** "Sign" means, with present intent to authenticate or adopt a record:

4.8 (1) to execute or adopt a tangible symbol; or

4.9 (2) to attach to or logically associate with the record an electronic symbol, sound, or
4.10 process.

4.11 Subd. 18. **State.** "State" means a state of the United States, the District of Columbia,
4.12 Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject
4.13 to the jurisdiction of the United States.

4.14 Subd. 19. **Student athlete.** "Student athlete" means an individual who is eligible to
4.15 attend an educational institution and engages in, is eligible to engage in, or may be eligible
4.16 in the future to engage in, any interscholastic or intercollegiate sport. The term does not
4.17 include an individual permanently ineligible to participate in a particular interscholastic or
4.18 intercollegiate sport for that sport.

4.19 Sec. 3. **[81A.25] CERTIFICATE OF REGISTRATION REQUIRED.**

4.20 Subdivision 1. **Required.** Except as otherwise provided in subdivision 2, an individual
4.21 may not act as an athlete agent in this state without holding a certificate of registration under
4.22 section 81A.27.

4.23 Subd. 2. **Exceptions.** Before being issued a certificate of registration under section
4.24 81A.27, an individual may act as an athlete agent in this state for all purposes, except signing
4.25 an agency contract, if:

4.26 (1) a student athlete or another person acting on behalf of the athlete initiates
4.27 communication with the individual; and

4.28 (2) not later than seven days after an initial act that requires the individual to register as
4.29 an athlete agent, the individual submits an application for registration as an athlete agent in
4.30 this state.

5.1 Subd. 3. **Nonregistration; effect on agency contract.** An agency contract resulting
5.2 from conduct in violation of this section is void, and the athlete agent shall return any
5.3 consideration received under the contract.

5.4 Sec. 4. **[81A.26] REGISTRATION APPLICATION.**

5.5 Subdivision 1. **Form and content.** An applicant for registration as an athlete agent shall
5.6 submit an application for registration to the commissioner in a form prescribed by the
5.7 commissioner. The applicant must be an individual, and the application must be signed by
5.8 the applicant under penalty of perjury. The application must contain at least the following:

5.9 (1) the name and date and place of birth of the applicant and the following contact
5.10 information for the applicant:

5.11 (i) the address of the applicant's principal place of business;

5.12 (ii) work and mobile telephone numbers; and

5.13 (iii) any means of communicating electronically, including a facsimile number, electronic
5.14 mail address, and personal and business or employer Web sites;

5.15 (2) the name of the applicant's business or employer, if applicable, including for each
5.16 business or employer, its mailing address, telephone number, organization form, and the
5.17 nature of the business;

5.18 (3) each social media account with which the applicant or the applicant's business or
5.19 employer is affiliated;

5.20 (4) each business or occupation in which the applicant engaged within five years before
5.21 the date of the application, including self-employment and employment by others, and any
5.22 professional or occupational license, registration, or certification held by the applicant during
5.23 that time;

5.24 (5) a description of the applicant's:

5.25 (i) formal training as an athlete agent;

5.26 (ii) practical experience as an athlete agent; and

5.27 (iii) educational background relating to the applicant's activities as an athlete agent;

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

5.31 (7) the name and address of each person that:

6.1 (i) is a partner, member, officer, manager, associate, or profit sharer or directly or
6.2 indirectly holds an equity interest of five percent or greater of the athlete agent's business
6.3 if it is not a corporation; and

6.4 (ii) is an officer or director of a corporation employing the athlete agent or a shareholder
6.5 having an interest of five percent or greater in the corporation;

6.6 (8) a description of the status of any application by the applicant, or any person named
6.7 under clause (7), for a state or federal business, professional, or occupational license, other
6.8 than as an athlete agent, from a state or federal agency, including any denial, refusal to
6.9 renew, suspension, withdrawal, or termination of the license and any reprimand or censure
6.10 related to the license;

6.11 (9) whether the applicant, or any person named under clause (7), has pleaded guilty or
6.12 no contest to, has been convicted of, or has charges pending for, a crime that would involve
6.13 moral turpitude or be a felony if committed in this state and, if so, identification of:

6.14 (i) the crime;

6.15 (ii) the law enforcement agency involved; and

6.16 (iii) if applicable, the date of the conviction and the fine or penalty imposed;

6.17 (10) whether, within 15 years before the date of application, the applicant, or any person
6.18 named under clause (7), has been a defendant or respondent in a civil proceeding, including
6.19 a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full
6.20 explanation of each proceeding;

6.21 (11) whether the applicant, or any person named under clause (7), has an unsatisfied
6.22 judgment or a judgment of continuing effect, including spousal maintenance or a domestic
6.23 order in the nature of child support, which is not current at the date of the application;

6.24 (12) whether, within ten years before the date of application, the applicant, or any person
6.25 named under clause (7), was adjudicated bankrupt or was an owner of a business that was
6.26 adjudicated bankrupt;

6.27 (13) whether there has been any administrative or judicial determination that the applicant,
6.28 or any person named under clause (7), made a false, misleading, deceptive, or fraudulent
6.29 representation;

6.30 (14) each instance in which conduct of the applicant, or any person named under clause
6.31 (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to

7.1 participate in an interscholastic, intercollegiate, or professional athletic event on a student
7.2 athlete or a sanction on an educational institution;

7.3 (15) each sanction, suspension, or disciplinary action taken against the applicant, or any
7.4 person named under clause (7), arising out of occupational or professional conduct;

7.5 (16) whether there has been a denial of an application for, suspension or revocation of,
7.6 refusal to renew, or abandonment of, the registration of the applicant, or any person named
7.7 under clause (7), as an athlete agent in any state;

7.8 (17) each state in which the applicant currently is registered as an athlete agent or has
7.9 applied to be registered as an athlete agent;

7.10 (18) if the applicant is certified or registered by a professional league or players
7.11 association:

7.12 (i) the name of the league or association;

7.13 (ii) the date of certification or registration and the date of expiration of the certification
7.14 or registration, if any; and

7.15 (iii) if applicable, the date of a denial of an application for, suspension or revocation of,
7.16 refusal to renew, withdrawal of, or termination of, the certification or registration or any
7.17 reprimand or censure related to the certification or registration; and

7.18 (19) any additional information required by the commissioner.

7.19 Subd. 2. **Reciprocal registration.** (a) Instead of proceeding under subdivision 1, an
7.20 individual registered as an athlete agent in another state may apply for registration as an
7.21 athlete agent in this state by submitting to the commissioner:

7.22 (1) a copy of the application for registration in the other state;

7.23 (2) a statement that identifies any material change in the information on the application
7.24 or verifies there is no material change in the information, signed under penalty of perjury;
7.25 and

7.26 (3) a copy of the certificate of registration from the other state.

7.27 (b) The commissioner shall issue a certificate of registration to an individual who applies
7.28 for registration under this subdivision if the commissioner determines:

7.29 (1) the application and registration requirements of the other state are substantially
7.30 similar to or more restrictive than sections 81A.22 to 81A.37; and

8.1 (2) the registration has not been revoked or suspended and no action involving the
8.2 individual's conduct as an athlete agent is pending against the individual or the individual's
8.3 registration in any state.

8.4 (c) For purposes of implementing paragraph (b), the commissioner shall:

8.5 (1) cooperate with national organizations concerned with athlete agent issues and agencies
8.6 in other states that register athlete agents to develop a common registration form and
8.7 determine which states have laws that are substantially similar to or more restrictive than
8.8 sections 81A.22 to 81A.37; and

8.9 (2) exchange information, including information related to actions taken against registered
8.10 athlete agents or their registrations, with those organizations and agencies.

8.11 **Sec. 5. [81A.27] REGISTRATION ISSUANCE AND RENEWAL.**

8.12 Subdivision 1. **Issuance.** Except as otherwise provided in subdivision 2, the commissioner
8.13 shall issue a certificate of registration to an applicant for registration who complies with
8.14 section 81A.26, subdivision 1.

8.15 Subd. 2. **Refusal to issue.** (a) The commissioner may refuse to issue a certificate of
8.16 registration to an applicant for registration under section 81A.26, subdivision 1, if the
8.17 commissioner determines that the applicant has engaged in conduct that significantly
8.18 adversely reflects on the applicant's fitness to act as an athlete agent. In making the
8.19 determination, the commissioner may consider whether the applicant has:

8.20 (1) pleaded guilty or no contest to, has been convicted of, or has charges pending for, a
8.21 crime that would involve moral turpitude or be a felony if committed in this state;

8.22 (2) made a materially false, misleading, deceptive, or fraudulent representation in the
8.23 application or as an athlete agent;

8.24 (3) engaged in conduct that would disqualify the applicant from serving in a fiduciary
8.25 capacity;

8.26 (4) engaged in conduct prohibited by section 81A.35;

8.27 (5) had a registration as an athlete agent suspended, revoked, or denied in any state;

8.28 (6) been refused renewal of registration as an athlete agent in any state;

8.29 (7) engaged in conduct resulting in imposition of a sanction, suspension, or declaration
8.30 of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic
8.31 event on a student athlete or a sanction on an educational institution; or

9.1 (8) engaged in conduct that adversely reflects on the applicant's credibility, honesty, or
9.2 integrity.

9.3 (b) In making a determination under paragraph (a), the commissioner shall consider:

9.4 (1) how recently the conduct occurred;

9.5 (2) the nature of the conduct and the context in which it occurred; and

9.6 (3) other relevant conduct of the applicant.

9.7 Subd. 3. **Renewal.** (a) An athlete agent registered under subdivision 1 may apply to
9.8 renew the registration by submitting an application for renewal in a form prescribed by the
9.9 commissioner. The applicant shall sign the application for renewal under penalty of perjury
9.10 and include current information on all matters required in an original application for
9.11 registration.

9.12 (b) An athlete agent registered under section 81A.26, subdivision 2, may renew the
9.13 registration by proceeding under paragraph (a) or, if the registration in the other state has
9.14 been renewed, by submitting to the commissioner copies of the application for renewal in
9.15 the other state and the renewed registration from the other state. The commissioner shall
9.16 renew the registration if the commissioner determines:

9.17 (1) the registration requirements of the other state are substantially similar to or more
9.18 restrictive than sections 81A.22 to 81A.37; and

9.19 (2) the renewed registration has not been suspended or revoked and no action involving
9.20 the individual's conduct as an athlete agent is pending against the individual or the individual's
9.21 registration in any state.

9.22 Subd. 4. **Term.** A certificate of registration or renewal of registration under sections
9.23 81A.22 to 81A.37 is valid for two years.

9.24 Sec. 6. **[81A.28] SUSPENSION, REVOCATION, OR REFUSAL TO RENEW**
9.25 **REGISTRATION.**

9.26 (a) The commissioner may limit, suspend, revoke, or refuse to renew a registration of
9.27 an individual registered under section 81A.27, subdivision 1, for conduct that would have
9.28 justified refusal to issue a certificate of registration under section 81A.27, subdivision 2.

9.29 (b) The commissioner may suspend or revoke the registration of an individual registered
9.30 under section 81A.26, subdivision 2, paragraph (b), or renewed under section 81A.27,
9.31 subdivision 3, paragraph (b), for any reason for which the commissioner could have refused

10.1 to grant or renew registration or for conduct that would justify refusal to issue a certificate
 10.2 of registration under section 81A.27, subdivision 2.

10.3 **Sec. 7. [81A.29] TEMPORARY REGISTRATION.**

10.4 The commissioner may issue a temporary certificate of registration as an athlete agent
 10.5 while an application for registration or renewal of registration is pending.

10.6 **Sec. 8. [81A.31] AGENCY CONTRACT.**

10.7 Subdivision 1. **Form.** An agency contract must be in a record signed by the parties.

10.8 Subd. 2. **Content.** An agency contract must contain:

10.9 (1) a statement that the athlete agent is registered as an athlete agent in this state and a
 10.10 list of any other states in which the agent is registered as an athlete agent;

10.11 (2) the amount and method of calculating the consideration to be paid by the student
 10.12 athlete for services to be provided by the agent under the contract and any other consideration
 10.13 the agent has received or will receive from any other source for entering into the contract
 10.14 or providing the services;

10.15 (3) the name of any person not listed in the agent's application for registration or renewal
 10.16 of registration that will be compensated because the athlete signed the contract;

10.17 (4) a description of any expenses the athlete agrees to reimburse;

10.18 (5) a description of the services to be provided to the athlete;

10.19 (6) the duration of the contract; and

10.20 (7) the date of execution.

10.21 Subd. 3. **Warning and cancellation right.** Subject to subdivision 5, an agency contract
 10.22 must contain a conspicuous notice in boldface type and in substantially the following form:

10.23 **WARNING TO STUDENT ATHLETE**

10.24 **IF YOU SIGN THIS CONTRACT:**

10.25 **(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT**
 10.26 **ATHLETE IN YOUR SPORT;**

10.27 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**
 10.28 **SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC**
 10.29 **EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH**
 10.30 **YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC**

11.1 **DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND**
 11.2 **PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE**
 11.3 **AGENT; AND**

11.4 **(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING**
 11.5 **IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR**
 11.6 **ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.**

11.7 **Subd. 4. Separate acknowledgment.** An agency contract must be accompanied by a
 11.8 separate record signed by the student athlete or, if the athlete is a minor, the parent or
 11.9 guardian of the athlete acknowledging that signing the contract may result in the loss of the
 11.10 athlete's eligibility to participate in the athlete's sport.

11.11 **Subd. 5. Nonconforming contract; voidability.** A student athlete or, if the athlete is a
 11.12 minor, the parent or guardian of the athlete may void an agency contract that does not
 11.13 conform to this section. If the contract is voided, any consideration received from the athlete
 11.14 agent under the contract to induce entering into the contract is not required to be returned.

11.15 **Subd. 6. Special requirements applicable to a contract with a minor.** If a student
 11.16 athlete is a minor, an agency contract must be signed by the parent or guardian of the minor
 11.17 and the notice required by subdivision 3 must be revised accordingly. At the time an agency
 11.18 contract is executed, the athlete agent shall give the student athlete or, if the athlete is a
 11.19 minor, the parent or guardian of the athlete a copy in a record of the contract and the separate
 11.20 acknowledgment required by subdivision 4.

11.21 **Sec. 9. [81A.32] REQUIRED NOTICES.**

11.22 **Subdivision 1. Definition.** In this section, "communicating or attempting to communicate"
 11.23 means contacting or attempting to contact by an in-person meeting, a record, or any other
 11.24 method that conveys or attempts to convey a message.

11.25 **Subd. 2. Athlete agent notice.** (a) Not later than 72 hours after entering into an agency
 11.26 contract or before the next scheduled athletic event in which the student athlete may
 11.27 participate, whichever occurs first, the athlete agent shall give notice in a record of the
 11.28 existence of the contract to the athletic director of the educational institution at which the
 11.29 athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends
 11.30 to enroll.

11.31 **(b) If an athlete agent enters into an agency contract with a student athlete and the athlete**
 11.32 **subsequently enrolls at an educational institution, the agent shall notify the athletic director**

12.1 of the institution of the existence of the contract not later than 72 hours after the agent knew
12.2 or should have known the athlete enrolled.

12.3 (c) If an athlete agent has a relationship with a student athlete before the athlete enrolls
12.4 in an educational institution and receives an athletic scholarship from the institution, the
12.5 agent shall notify the institution of the relationship not later than ten days after the enrollment
12.6 if the agent knows or should have known of the enrollment and:

12.7 (1) the relationship was motivated in whole or part by the intention of the agent to recruit
12.8 or solicit the athlete to enter an agency contract in the future; or

12.9 (2) the agent directly or indirectly recruited or solicited the athlete to enter an agency
12.10 contract before the enrollment.

12.11 (d) An athlete agent shall give notice in a record to the athletic director of any educational
12.12 institution at which a student athlete is enrolled before the agent communicates or attempts
12.13 to communicate with:

12.14 (1) the athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence
12.15 the athlete or parent or guardian to enter into an agency contract; or

12.16 (2) another individual to have that individual influence the athlete or, if the athlete is a
12.17 minor, the parent or guardian of the athlete to enter into an agency contract.

12.18 (e) If a communication or attempt to communicate with an athlete agent is initiated by
12.19 a student athlete or another individual on behalf of the athlete, the agent shall notify in a
12.20 record the athletic director of any educational institution at which the athlete is enrolled.
12.21 The notification must be made not later than ten days after the communication or attempt.

12.22 Subd. 3. **Student athlete notice.** Not later than 72 hours after entering into an agency
12.23 contract or before the next scheduled athletic event in which the student athlete may
12.24 participate, whichever occurs first, the athlete shall inform the athletic director of the
12.25 educational institution at which the athlete is enrolled that the athlete has entered into an
12.26 agency contract and the name and contact information of the athlete agent.

12.27 Subd. 4. **Educational institution notice.** An educational institution that becomes aware
12.28 of a violation of sections 81A.22 to 81A.37 by an athlete agent shall notify the commissioner
12.29 and any professional league or players association with which the institution is aware the
12.30 agent is licensed or registered of the violation.

13.1 Sec. 10. **[81A.33] STUDENT ATHLETE'S RIGHT TO CANCEL.**

13.2 Subdivision 1. Requirement. A student athlete or, if the athlete is a minor, the parent
13.3 or guardian of the athlete may cancel an agency contract by giving notice in a record of
13.4 cancellation to the athlete agent not later than 14 days after the contract is signed.

13.5 Subd. 2. Nonwaivability. A student athlete or, if the athlete is a minor, the parent or
13.6 guardian of the athlete may not waive the right to cancel an agency contract.

13.7 Subd. 3. Consideration. If a student athlete, parent, or guardian cancels an agency
13.8 contract, the athlete, parent, or guardian is not required to pay any consideration under the
13.9 contract or return any consideration received from the athlete agent to influence the athlete
13.10 to enter into the contract.

13.11 Sec. 11. **[81A.34] REQUIRED RECORDS.**

13.12 Subdivision 1. Retention; specification. An athlete agent shall create and retain for five
13.13 years records of the following:

13.14 (1) the name and address of each individual represented by the agent;

13.15 (2) each agency contract entered into by the agent; and

13.16 (3) the direct costs incurred by the agent in the recruitment or solicitation of each student
13.17 athlete to enter into an agency contract.

13.18 Subd. 2. Inspection. Records described in subdivision 1 are open to inspection by the
13.19 commissioner during normal business hours.

13.20 Sec. 12. **[81A.35] PROHIBITED CONDUCT.**

13.21 Subdivision 1. Conduct intended to induce student athlete to contract. An athlete
13.22 agent, with the intent to influence a student athlete or, if the athlete is a minor, a parent or
13.23 guardian of the athlete to enter into an agency contract, may not take any of the following
13.24 actions or encourage any other individual to take or assist any other individual in taking
13.25 any of the following actions on behalf of the agent:

13.26 (1) give materially false or misleading information or make a materially false promise
13.27 or representation;

13.28 (2) furnish anything of value to the athlete before the athlete enters into the contract; or

13.29 (3) furnish anything of value to an individual other than the athlete or another registered
13.30 athlete agent.

14.1 Subd. 2. **Other intentional conduct.** An athlete agent may not intentionally do any of
14.2 the following or encourage any other individual to do any of the following on behalf of the
14.3 agent:

14.4 (1) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a
14.5 minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian
14.6 to enter an agency contract unless registered under sections 81A.22 to 81A.37;

14.7 (2) fail to create or retain or to permit inspection of the records required by section
14.8 81A.34;

14.9 (3) fail to register when required by section 81A.25;

14.10 (4) provide materially false or misleading information in an application for registration
14.11 or renewal of registration;

14.12 (5) predate or postdate an agency contract; or

14.13 (6) fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the
14.14 athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport
14.15 that the signing may make the athlete ineligible to participate as a student athlete in that
14.16 sport.

14.17 Subd. 3. **Misconduct of athlete agents.** An athlete agent must not violate section
14.18 325E.33.

14.19 Sec. 13. **[81A.37] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND**
14.20 **NATIONAL COMMERCE ACT.**

14.21 Sections 81A.22 to 81A.37 modify, limit, or supersede the Electronic Signatures in
14.22 Global and National Commerce Act, United States Code, title 15, section 7001 et seq., but
14.23 do not modify, limit, or supersede section 101(c) of that act, United States Code, title 15,
14.24 section 7001(c), or authorize electronic delivery of any of the notices described in section
14.25 103(b) of that act, United States Code, title 15, section 7003(b).

14.26 Sec. 14. **REPEALER.**

14.27 Minnesota Statutes 2016, sections 81A.01; 81A.02; 81A.04; 81A.05; 81A.06; 81A.07;
14.28 81A.10; 81A.11; 81A.12; 81A.13; 81A.14; 81A.19; 81A.20; and 81A.21, are repealed.

14.29 Sec. 15. **EFFECTIVE DATE.**

14.30 This act is effective August 1, 2018.

15.1

ARTICLE 2

15.2

CONFORMING CHANGES

15.3

Section 1. Minnesota Statutes 2016, section 45.011, subdivision 1, is amended to read:

15.4

Subdivision 1. **Scope.** As used in chapters 45 to 80C, 80E to 83, 155A, 332, 332A, 332B,

15.5

345, and 359, and sections 81A.22 to 81A.37; 123A.21, subdivision 7, paragraph (a), clause

15.6

(23); 123A.25; 325D.30 to 325D.42; 326B.802 to 326B.885; 386.62 to 386.78; 471.617;

15.7

and 471.982, unless the context indicates otherwise, the terms defined in this section have

15.8

the meanings given them.

15.9

Sec. 2. **REVISOR'S INSTRUCTION.**

15.10

The revisor of statutes shall renumber the sections of Minnesota Statutes listed in column

15.11

A to the sections listed in column B. The revisor shall make necessary cross-reference

15.12

changes in Minnesota Statutes consistent with the renumbering.

15.13

Column A

Column B

15.14

81A.03

81A.24

15.15

81A.09

81A.30

15.16

81A.15

81A.36

15.17

81A.16

81A.361

15.18

81A.17

81A.362

APPENDIX
Article locations in HF2363-1

ARTICLE 1 REVISED UNIFORM ATHLETE AGENTS ACT..... Page.Ln 1.8
ARTICLE 2 CONFORMING CHANGES..... Page.Ln 15.1

81A.01 SHORT TITLE.

Sections 81A.01 to 81A.21 may be cited as the Uniform Athlete Agents Act.

81A.02 DEFINITIONS.

Subdivision 1. **Terms.** For purposes of sections 81A.01 to 81A.21, the terms defined in this section have the meanings given them.

Subd. 2. **Agency contract.** "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract.

Subd. 3. **Athlete agent.** "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly for remuneration, recruits or solicits a student athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

Subd. 4. **Athletic director.** "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 6. **Contact.** "Contact" means a communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract.

Subd. 7. **Endorsement contract.** "Endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the student athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

Subd. 8. **Intercollegiate sport.** "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.

Subd. 9. **Person.** "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, or joint venture; government, governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

Subd. 10. **Professional sports services contract.** "Professional sports services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

Subd. 11. **Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Subd. 12. **Registration.** "Registration" means registration as an athlete agent under sections 81A.01 to 81A.21.

Subd. 13. **State.** "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Subd. 14. **Student athlete.** "Student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport.

81A.04 CERTIFICATE OF REGISTRATION REQUIRED.

Subdivision 1. **General requirement.** Except as otherwise provided in subdivision 2, an individual may not act as an athlete agent in this state without holding a certificate of registration under section 81A.06.

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Subd. 2. **Exceptions.** Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:

(1) a student athlete or another person acting on behalf of the student athlete initiates communication with the individual; and

(2) within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

Subd. 3. **Contracts void.** An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

81A.05 REGISTRATION PROCESS.

Subdivision 1. **Requirements.** An applicant for registration shall submit an application for registration to the commissioner in a form prescribed by the commissioner. The application must be in the name of an individual and, except as otherwise provided in subdivision 2, signed or otherwise authenticated by the applicant under penalty of perjury, and state or contain:

(1) the name of the applicant and the address of the applicant's principal place of business;

(2) the name of the applicant's business or employer, if applicable;

(3) any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;

(4) a description of the applicant's:

(i) formal training as an athlete agent;

(ii) practical experience as an athlete agent; and

(iii) educational background relating to the applicant's activities as an athlete agent;

(5) the names and addresses of three individuals not related to the applicant who are willing to serve as references;

(6) the name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding the date of submission of the application;

(7) the names and addresses of all persons who are:

(i) with respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and

(ii) with respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent or greater;

(8) whether the applicant or any person named under clause (7) has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;

(9) whether there has been any administrative or judicial determination that the applicant or any person named under clause (7) has made a false, misleading, deceptive, or fraudulent representation;

(10) any instance in which the conduct of the applicant or any person named under clause (7) resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution;

(11) any sanction, suspension, or disciplinary action taken against the applicant or any person named under clause (7) arising out of occupational or professional conduct; and

(12) whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named under clause (7) as an athlete agent in any state.

Subd. 2. **Reciprocal applications or certificates.** An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed under subdivision 1. The commissioner must accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:

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(1) was submitted in the other state within six months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;

(2) contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

(3) was signed by the applicant under penalty of perjury.

81A.06 ISSUANCE OF CERTIFICATE OF REGISTRATION.

Subdivision 1. **Authority.** Except as otherwise provided in subdivision 2, the commissioner must issue a certificate of registration to an individual who complies with section 81A.05, subdivision 1, or whose application has been accepted under section 81A.05, subdivision 2.

Subd. 2. **Refusal.** (a) The commissioner may refuse to issue a certificate of registration if the commissioner determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the commissioner may consider whether the applicant has:

(1) been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;

(2) made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(3) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) engaged in conduct prohibited by section 81A.14;

(5) had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state;

(6) engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution; or

(7) engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(b) In making a determination under paragraph (a), the commissioner shall consider:

(1) how recently the conduct occurred;

(2) the nature of the conduct and the context in which it occurred; and

(3) any other relevant conduct of the applicant.

Subd. 3. **Renewals.** An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the commissioner. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

Subd. 4. **Reciprocal renewals.** An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed under subdivision 3, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The commissioner must accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

(1) was submitted in the other state within six months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;

(2) contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and

(3) was signed by the applicant under penalty of perjury.

Subd. 5. **Term.** A certificate of registration or a renewal of a registration is valid for two years.

81A.07 SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.

Subdivision 1. **Authority.** The commissioner may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under section 81A.06, subdivision 2.

Subd. 2. **Notice and hearing requirements.** The commissioner may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only under chapter 14.

81A.10 FORM OF CONTRACT.

Subdivision 1. **Required authentication.** An agency contract must be in a record, signed or otherwise authenticated by the parties.

Subd. 2. **Contents.** An agency contract must state or contain:

(1) the amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(2) the name of any person not listed in the application for registration or renewal of registration who will be compensated because the student athlete signed the agency contract;

(3) a description of any expenses that the student athlete agrees to reimburse;

(4) a description of the services to be provided to the student athlete;

(5) the duration of the contract; and

(6) the date of execution.

Subd. 3. **Notice.** An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

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

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

Subd. 4. **Voidability.** An agency contract that does not conform to this section is voidable by the student athlete. If a student athlete voids an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

Subd. 5. **Record to student athlete.** The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student athlete at the time of execution.

81A.11 NOTICE TO EDUCATIONAL INSTITUTION.

Subdivision 1. **By athlete agent.** Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent must give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or at which the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

Subd. 2. **By student athlete.** Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete must inform the athletic director of the educational institution at which the student athlete is enrolled that he or she has entered into an agency contract. The commissioner has no enforcement authority with respect to a violation of this subdivision by a student athlete.

81A.12 STUDENT ATHLETE'S RIGHT TO CANCEL.

Subdivision 1. **Generally.** A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

Subd. 2. **Nonwaivability.** A student athlete may not waive the right to cancel an agency contract.

Subd. 3. **Effect.** If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

81A.13 REQUIRED RECORDS.

Subdivision 1. **Retention.** An athlete agent must retain the following records for a period of five years:

- (1) the name and address of each individual represented by the athlete agent;
- (2) any agency contract entered into by the athlete agent; and
- (3) any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

Subd. 2. **Inspection rights.** Records required by subdivision 1 to be retained are open to inspection by the commissioner during normal business hours.

81A.14 PROHIBITED CONDUCT.

Subdivision 1. **Conduct intended to induce a student athlete to enter into an agency contract.** An athlete agent, with the intent to induce a student athlete to enter into an agency contract, may not:

- (1) give any materially false or misleading information or make a materially false promise or representation;
- (2) furnish anything of value to a student athlete before the student athlete enters into the agency contract; or
- (3) furnish anything of value to any individual other than the student athlete or another registered athlete agent.

Subd. 2. **Other intentional conduct.** An athlete agent may not intentionally:

- (1) initiate contact with a student athlete unless registered under sections 81A.01 to 81A.21;
- (2) refuse or fail to retain or permit inspection of the records required to be retained by section 81A.13;
- (3) fail to register when required by section 81A.04;
- (4) provide materially false or misleading information in an application for registration or renewal of registration;
- (5) predate or postdate an agency contract; or
- (6) fail to notify a student athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport.

Subd. 3. **Misconduct of athlete agents.** An athlete agent must not violate section 325E.33.

81A.19 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

Sections 81A.01 to 81A.21 governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures are intended to conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, Public Law 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

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81A.20 SEVERABILITY.

If any provision of sections 81A.01 to 81A.21 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 81A.01 to 81A.21 which can be given effect without the invalid provision or application, and to this end the provisions of sections 81A.01 to 81A.21 are severable.

81A.21 EFFECT ON OTHER LAW.

Sections 81A.01 to 81A.21 do not limit the applicability of section 325E.33.