

HOUSE BILL No. 4470

March 15, 2001, Introduced by Reps. Hale, Lemmons, Clark, Garza, Kolb, Bogardus, Neumann, Hardman, Stallworth, Thomas and McConico and referred to the Committee on Commerce.

A bill to prescribe certain standards in contracts between athletes and athlete agents; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "athlete agent contract act".

3 Sec. 3. (1) As used in this act:

4 (a) "Agent contract" means a contract or agreement pursuant
5 to which an athlete authorizes another person to negotiate or
6 solicit on behalf of the athlete a professional sports services
7 contract.

8 (b) "Athlete" means an individual who participates in
9 athletics.

1 (c) "Athlete agent" means a person who, directly or
2 indirectly and for valuable consideration, does 1 or more of the
3 following:

4 (i) Recruits or solicits an athlete to enter into an agent
5 contract.

6 (ii) Enters into an agent contract with an athlete.

7 (iii) Attempts to represent or represents an athlete in
8 soliciting, negotiating, or renegotiating a professional sports
9 services contract.

10 (d) "Immediate family" means an individual's parent, grand-
11 parent, brother, sister, parent-in-law, aunt, uncle, or the
12 spouse of an individual described in this subdivision.

13 (e) "Person" means an individual, sole proprietorship, part-
14 nership, association, corporation, or other legal entity.

15 (f) "Professional sports services contract" means an agree-
16 ment pursuant to which a person receives remuneration as a player
17 on a professional sports team or as a participant in a profes-
18 sional sports event.

19 Sec. 5. (1) An individual or a person who is not an indi-
20 vidual may act as an athlete agent.

21 (2) A person shall not act as an athlete agent for an ath-
22 lete without a written agent contract.

23 Sec. 7. (1) A member of an athlete's immediate family may
24 act as the athlete's athlete agent without furnishing to the ath-
25 lete a disclosure statement as described in section 11.

26 (2) An attorney rendering legal advice to an athlete
27 concerning a proposed or existing professional sports services

1 contract is exempt from this act if the attorney does not
2 represent the athlete in negotiating, renegotiating, or solicit-
3 ing the professional sports services contract.

4 Sec. 9. (1) Not less than 7 business days before the date
5 of execution of the agent contract, an athlete agent shall fur-
6 nish to the athlete a document entitled "disclosure statement".

7 (2) The disclosure statement shall comply with section 11 or
8 section 13.

9 Sec. 11. (1) The disclosure statement required under sec-
10 tion 9 for an athlete agent who is an individual shall contain
11 all of the following, in relation to the athlete agent:

12 (a) His or her educational background, including colleges
13 attended, dates of attendance, and degrees received.

14 (b) A list of professional licenses or certifications held
15 by the athlete agent, including the date received and the confer-
16 ring authority.

17 (c) His or her employment history since reaching age 18,
18 including the date of employment, job description, and the name,
19 address, and telephone number of each employer.

20 (d) If the athlete agent has acted as an athlete agent for 3
21 or more athletes, the names of 3 athletes for whom the athlete
22 agent has acted as an athlete agent.

23 (e) The name of a professional sports team in which the ath-
24 lete agent or his or her immediate family or business affiliate
25 has an ownership interest.

26 (f) All sanctions imposed upon and all disciplinary actions
27 taken against the athlete agent or imposed upon or taken against

1 an athlete, an institution of higher education, or a professional
2 sports team as a result of the conduct of the athlete agent.

3 (g) Each misdemeanor or felony conviction of the athlete
4 agent.

5 (2) In addition to the information required under subsection
6 (1), an athlete agent who seeks authority, whether as part of the
7 agent contract or by a separate agreement, to dispose of, encum-
8 ber, or invest all or part of the assets of an athlete shall dis-
9 close all of the following:

10 (a) The athlete agent's experience in business management,
11 investing, investment counseling, or brokerage services.

12 (b) The date of a bankruptcy petition filed by the athlete
13 agent or by or on behalf of an athlete represented by the athlete
14 agent.

15 (c) The name of each person that is a business entity in
16 which the athlete agent, his or her immediate family, or his or
17 her business affiliate has an ownership interest of 5% or more.

18 (3) The disclosure statement described in this section shall
19 contain a certification signed by the athlete agent stating that
20 all information provided in the disclosure statement is true and
21 complete to the best of his or her knowledge.

22 Sec. 13. (1) The disclosure statement required under sec-
23 tion 9 for an athlete agent that is not an individual shall con-
24 tain all of the following, in relation to the athlete agent:

25 (a) The educational background, including colleges attended,
26 dates of attendance, and degrees received of each owner, officer,
27 and partner.

1 (b) A list of professional licenses or certifications held
2 by each owner, officer, and partner, including the date received
3 and the conferring authority.

4 (c) The employment history after age 18 of each owner, offi-
5 cer, and partner.

6 (d) If the athlete agent has acted as an athlete agent for 3
7 or more athletes, the names of 3 athletes for whom the athlete
8 agent has acted as an athlete agent.

9 (e) The name of each professional sports team in which an
10 athlete agent, the immediate family members of the athlete
11 agent's owners, officers, partners, or shareholders, or the ath-
12 lete agent's business affiliates have an ownership interest.

13 (f) All sanctions imposed upon and disciplinary actions
14 taken against the athlete agent or imposed upon or taken against
15 1 of its athlete agents, an athlete, an institution of higher
16 education, or a professional sports team as a result of the con-
17 duct of the athlete agent.

18 (g) All misdemeanor and felony convictions of each owner,
19 each officer, each partner, and each shareholder who owns 10% or
20 more of its stock.

21 (2) In addition to the information required under subsection
22 (1), an athlete agent that is not an individual that seeks
23 authority to dispose of, encumber, or invest all or part of the
24 assets of an athlete shall disclose all of the following:

25 (a) The athlete agent's experience in business management,
26 investing, investment counseling, or brokerage services.

1 (b) The date of a bankruptcy or receivership petition filed
2 by the athlete agent or by or on behalf of an athlete represented
3 by the athlete agent.

4 (c) The name of each person that is a business entity in
5 which the athlete agent, the immediate family member of the ath-
6 lete agent's owners, officers, partners, or shareholders, or the
7 athlete agent's business affiliates has an ownership interest of
8 5% or more.

9 (3) The disclosure statement described in this section shall
10 contain a certification signed by an owner, officer, or partner
11 of the athlete agent stating that all information provided in the
12 disclosure statement is true and complete to the best of his or
13 her knowledge.

14 Sec. 15. (1) An agent contract shall be in writing, exe-
15 cuted by the athlete agent and the athlete, and in conformance
16 with section 17. All terms of the agent contract shall be con-
17 tained in the written agent contract.

18 (2) The agent contract shall be written in the language that
19 the athlete speaks fluently and, if the athlete speaks more than
20 1 language, the language of his or her choice.

21 (3) Not less than 7 business days before the date of execu-
22 tion of an agent contract, the athlete agent shall provide a copy
23 of the proposed agent contract to the athlete for review.

24 Sec. 17. (1) At a minimum, all of the following shall be
25 contained in an agent contract:

26 (a) A provision outlining the athlete agent's services and
27 compensation in a form substantially similar to the following:

| | Service | | Flat | Fee | |
|---|---------|-------|-------|--------|-------|
| | Yes | No | | Hourly | % |
| 1 2 | | | | | |
| 3 Negotiation of professional 4 sports services contract for 5 <u>(fill in sport)</u> | _____ | _____ | _____ | _____ | _____ |
| 6 Negotiation of endorsement or 7 licensing contract | _____ | _____ | _____ | _____ | _____ |
| 8 Investment services | _____ | _____ | _____ | _____ | _____ |
| 9 Tax consulting | _____ | _____ | _____ | _____ | _____ |
| 10 Legal services | _____ | _____ | _____ | _____ | _____ |

11 (b) The following provisions in 12-point boldfaced type:

12 (i) A "notice of cancellation" stating that an athlete has
13 3 business days after the date of execution of the agent contract
14 to cancel the agent contract without cause. The notice of can-
15 cellation provision shall also include a declaration for the ath-
16 lete to sign and date indicating his or her decision to cancel
17 the agent contract.

18 (ii) The right of the athlete to conduct an audit of the
19 books and records of the athlete agent that are related to the
20 athlete.

21 (iii) The right of an athlete within 2 years after the date
22 of execution of the agent contract to file a civil action to void
23 the agent contract due to a violation of this act and the possi-
24 bility of an award of attorney fees and treble damages if the
25 athlete prevails in a civil action filed under this
26 subparagraph.

27 (iv) A certification signed by the athlete agent that all
28 the information provided in the contract is true and complete to
29 the best of his or her knowledge.

1 (2) The fee notation described in subsection (1)(a) shall
2 indicate whether a percentage fee, if any, is scaled or if it
3 differs among the years of a multiyear contract. The fee nota-
4 tion shall also indicate whether a fee is to be paid by the ath-
5 lete "up front", at the execution of the agent contract, or as
6 the athlete receives the compensation.

7 Sec. 19. An athlete agent shall provide the athlete a copy
8 of the agent contract at the time of its execution. A copy of
9 the disclosure statement described in section 11 or 13 shall be
10 attached to the agent contract.

11 Sec. 21. An athlete may cancel an agent contract without
12 cause not more than 3 business days after the date of execution
13 of the agent contract. If an agent contract is canceled during
14 the 3 business day period, then an athlete agent shall not charge
15 the athlete for any goods provided, services rendered, or
16 expenses expended on behalf of the athlete during that 3-day
17 period.

18 Sec. 23. An athlete agent who negotiates a professional
19 sports services contract for an athlete shall provide all of the
20 following to the athlete within 3 days after the execution of the
21 professional sports services contract:

22 (a) A copy of the professional sports services contract.

23 (b) A statement of the amount and timing of all compensation
24 the athlete agent is to receive from the athlete as a result of
25 the athlete agent's negotiation of the professional sports serv-
26 ices contract.

1 Sec. 25. An athlete agent shall notify an athlete he or she
2 represents pursuant to an agent contract of a change in the
3 athlete agent's business address within 30 days after that
4 change.

5 Sec. 27. An athlete with whom an athlete agent has entered
6 into an agent contract may audit the books and records of the
7 athlete agent that are related to the athlete during normal busi-
8 ness hours upon 48 hours' written notice to the athlete agent.

9 Sec. 29. An athlete agent who intentionally makes a false
10 statement or material omission designed to deceive or persuade an
11 athlete to sign an agent contract is guilty of a misdemeanor pun-
12 ishable by imprisonment for not more than 90 days or by a fine of
13 not more than \$50,000.00, or both.

14 Sec. 31. (1) Not more than 2 years after the date of execu-
15 tion of the agent contract, an athlete may bring a civil action
16 to void the agent contract for a violation of this act. If an
17 athlete prevails in an action under this section, the court shall
18 award costs and actual attorney fees to the athlete.

19 (2) Upon proof of a willful violation of this act by the
20 athlete agent, the court, in an action under subsection (1), may
21 award to the athlete treble damages.

22 (3) The rights contained in this act are cumulative and do
23 not prevent an athlete from bringing a civil action that is oth-
24 erwise available in a court of competent jurisdiction.

25 Sec. 33. This act takes effect April 1, 2002.