

An Act

ENROLLED SENATE
BILL NO. 48

By: Daniels of the Senate

and

Kannady, Caldwell (Trey)
and Pittman of the House

An Act relating to student athletes; creating the Revised Uniform Athlete Agents Act; providing short title; defining terms; providing for application of the Administrative Procedures Act; providing for promulgation of rules; making Secretary of State agent for service of process for nonresident athlete agents; requiring registration; providing acts that may occur before registration; providing that certain contracts are void; providing for return of consideration; providing registration procedure; requiring application for registration to contain certain information; providing for issuance of certificate of registration; requiring the Secretary of State to cooperate and exchange information with certain organizations; authorizing the Secretary of State to refuse to issue a certificate of registration for specified reasons; providing for renewal of registration; providing for suspension, revocation and refusal to renew registrations; authorizing issuance of temporary certificate of registration; providing registration and renewal fees; providing for certificates issued under prior law; providing for deposit of fees in the Revolving Fund for the Office of Secretary of State; providing requirements for contracts; specifying information to be contained in contract; requiring inclusion of warning; requiring certain notice be given to educational institution and athletic director; requiring educational institution to notify the

Secretary of State of known violations; providing right to cancel contract; providing that right cannot be waived; providing that consideration need not be returned; requiring athlete agent to keep certain records for specified period of time; prohibiting certain conduct; providing criminal penalties; providing that certain portion of fines be deposited in the Attorney General's Law Enforcement Revolving Fund; authorizing the Secretary of State to assess civil penalties; specifying maximum amount of civil penalties; providing for uniformity of application and construction; providing relation to Electronic Signatures in Global and National Commerce Act; creating the Student Athlete Name, Image and Likeness Rights Act; providing short title; defining terms; authorizing student athlete to earn compensation under certain circumstances; prohibiting compensation to student athlete for certain purposes; prohibiting certain entities from providing representation or compensation to student athlete for specified purposes; prohibiting certain actions by collegiate athletic associations or member institutions; authorizing student athlete to obtain professional representation for specified purposes; establishing qualifications for certain representation; requiring disclosure of certain contract to postsecondary institution within certain time period; prohibiting student athlete from entering into certain contracts; prohibiting team contracts from preventing certain activities of student athlete; prohibiting certain agreement involving commercial products or services; prohibiting extension of certain contract beyond certain time period; construing provisions; requiring determination of date of recognition of provisions by postsecondary institutions; amending 78 O.S. 2011, Sections 53 and 54, which relate to the Oklahoma Deceptive Trade Practices Act; expanding acts that constitute deceptive trade practices to include violations of the Revised Uniform Athlete Agents Act; expanding authority of the Attorney General and district attorneys; repealing 70 O.S. 2011, Sections 821.81, 821.82, 821.83, 821.84, 821.85, as amended by

Section 1, Chapter 173, O.S.L. 2012, 821.86, 821.87, 821.88, 821.89, 821.90, 821.91, 821.92, 821.93, 821.94, 821.95, 821.96, 821.97, 821.98 and 821.99 (70 O.S. Supp. 2020, Section 821.85), which relate to the Uniform Athlete Agents Act; providing for codification; and declaring an emergency.

SUBJECT: Student athletes

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

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

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

2. "Athlete agent":

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

(1) directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts or negotiates to obtain employment for a student athlete as a

professional athlete or member of a professional sports team or organization,

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

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

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

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

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

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

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

b. does not include an individual who:

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

(2) is a licensed, registered or certified professional and offers or provides services to a

student athlete customarily provided by members of the profession, unless the individual:

- (a) also recruits or solicits the athlete to enter into an agency contract,
- (b) also, for compensation, procures employment or offers, promises, attempts or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization, or
- (c) receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete;

3. "Athletic director" means the 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;

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

5. "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 athlete may have because of publicity, reputation, following or fame obtained because of athletic ability or performance;

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

7. "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 that promotes or regulates collegiate athletics;

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

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

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

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

12. "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;

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

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

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

a. to execute or adopt a tangible symbol, or

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

16. "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; and

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

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.3 of Title 70, unless there is created a duplication in numbering, reads as follows:

SECRETARY OF STATE; AUTHORITY; PROCEDURE.

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

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

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.4 of Title 70, unless there is created a duplication in numbering, reads as follows:

ATHLETE AGENT; REGISTRATION REQUIRED; VOID CONTRACT.

A. Except as otherwise provided in subsection B of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under the Revised Uniform Athlete Agents Act.

B. Before being issued a certificate of registration under the Revised Uniform Athlete Agents Act 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 athlete initiates communication with the individual; and

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

C. 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.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.5 of Title 70, unless there is created a duplication in numbering, reads as follows:

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

A. An applicant for registration as an athlete agent shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

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

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

- b. work and mobile telephone numbers, and
- c. any means of communicating electronically including a facsimile number, electronic-mail address, and personal and business or employer websites;

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

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

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

5. A description of the applicant's:

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

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

7. The name and address of each person that:

- a. is a partner, member, officer, manager, associate or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or greater of the athlete agent's business if it is not a corporation, and

- b. is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or greater in the corporation;

8. A description of the status of any application by the applicant or any person named under paragraph 7 of this subsection for a state or federal business, professional or occupational license, other than as an athlete agent, from a state or federal agency including any denial, refusal to renew, suspension, withdrawal or termination of the license and any reprimand or censure related to the license;

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

- a. the crime,
- b. the law enforcement agency involved, and
- c. if applicable, the date of the conviction and the fine or penalty imposed;

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

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

12. Whether, within ten (10) years before the date of application, the applicant or any person named under paragraph 7 of

this subsection was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

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

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

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

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

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

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

- a. the name of the league or association,
- b. the date of certification or registration, and the date of expiration of the certification or registration, if any, and
- c. if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or

censure related to the certification or registration;
and

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.6 of Title 70, unless there is created a duplication in numbering, reads as follows:

CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.

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

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

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

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 14 of this act;

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

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

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

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

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

1. How recently the conduct occurred;

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

3. Other relevant conduct of the applicant.

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

E. An athlete agent registered under subsection C of Section 5 of this act may renew the registration by proceeding under subsection D of this section or, if the registration in the other state has been renewed, by submitting to the Secretary of State copies of the application for renewal in the other state and the renewed registration from the other state. The Secretary of State shall renew the registration if the Secretary of State determines:

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

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

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

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.7 of Title 70, unless there is created a duplication in numbering, reads as follows:

SUSPENSION, REVOCATION OR REFUSAL TO RENEW REGISTRATION.

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

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

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.8 of Title 70, unless there is created a duplication in numbering, reads as follows:

TEMPORARY REGISTRATION.

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

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.9 of Title 70, unless there is created a duplication in numbering, reads as follows:

REGISTRATION AND RENEWAL FEES.

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

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

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

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

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

B. Any registration in this state as an athlete agent under prior law which has not expired before January 1, 2022, shall continue to be valid until the date the registration expires.

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

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.10 of Title 70, unless there is created a duplication in numbering, reads as follows:

REQUIRED FORM OF AGENCY CONTRACT.

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

B. An agency contract must contain:

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

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

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

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

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

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

6. The duration of the contract; and

7. The date of execution.

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

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

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

D. An agency contract must be accompanied by a separate record signed by the student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging that signing the

contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

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

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

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.11 of Title 70, unless there is created a duplication in numbering, reads as follows:

NOTICE TO EDUCATIONAL INSTITUTION.

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

B. Not later than seventy-two (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 shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

C. Not later than seventy-two (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 shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

D. If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than seventy-two (72) hours after the agent knew or should have known the athlete enrolled.

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

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

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

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

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

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

G. If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the

athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than ten (10) days after the communication or attempt to communicate.

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

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.12 of Title 70, unless there is created a duplication in numbering, reads as follows:

STUDENT ATHLETE'S RIGHT TO CANCEL.

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

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

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

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.13 of Title 70, unless there is created a duplication in numbering, reads as follows:

REQUIRED RECORDS.

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

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

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

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

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

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.14 of Title 70, unless there is created a duplication in numbering, reads as follows:

PROHIBITED CONDUCT.

An athlete agent may not intentionally:

1. Give a student athlete or, if the athlete is a minor, a parent or guardian of the athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the athlete, parent or guardian to enter into an agency contract;

2. Furnish a thing of value to the athlete or any other individual, if to do so may result in the loss of the athlete's eligibility to participate in the athlete's sport, unless:

a. the agent notifies the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll, not later than seventy-two (72) hours after giving the thing of value, and

b. the athlete or, if the athlete is a minor, a parent or guardian of the athlete acknowledges to the agent in a record that receipt of the thing of value may result in the loss of the athlete's eligibility to participate in the athlete's sport;

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

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

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

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

7. Predate or postdate an agency contract;

8. Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete before the athlete, parent or guardian signs an agency contract for a particular sport that the signing may result in the loss of the athlete's eligibility to participate in the athlete's sport;

9. Encourage another individual to do any of the acts described in paragraphs 1 through 8 of this section; or

10. Encourage another individual to assist any other individual in doing any of the acts described in paragraphs 1 through 8 of this section on behalf of the agent.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.15 of Title 70, unless there is created a duplication in numbering, reads as follows:

CRIMINAL PENALTY.

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

B. An athlete agent who violates Section 14 of this act upon a second or subsequent conviction shall be guilty of a felony and subject to a fine of not less than Fifty Thousand Dollars (\$50,000.00) and not more than Five Hundred Thousand Dollars (\$500,000.00), or to imprisonment not to exceed three (3) years, or to both such fine and imprisonment. All prior convictions in any state of acts that would constitute a violation under Section 14 of this act shall also constitute prior convictions under this section.

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

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.16 of Title 70, unless there is created a duplication in numbering, reads as follows:

CIVIL REMEDY.

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

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

2. Suffers financial damage.

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

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

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.17 of Title 70, unless there is created a duplication in numbering, reads as follows:

CIVIL PENALTY.

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

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.18 of Title 70, unless there is created a duplication in numbering, reads as follows:

UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.19 of Title 70, unless there is created a duplication in numbering, reads as follows:

RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

The Revised Uniform Athlete Agents Act modifies, limits or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C., Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C., Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C., Section 7003(b).

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.21 of Title 70, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Student Athlete Name, Image and Likeness Rights Act".

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.22 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the Student Athlete Name, Image and Likeness Rights Act:

1. "Athletic grant-in-aid" shall have the meaning provided by the applicable collegiate athletic association as aid related to the student athlete's participation in an intercollegiate sport for a postsecondary institution. "Athletic grant-in-aid" shall not include compensation for the use of the student-athlete's name, image, or likeness rights or athletic reputation;

2. "Collegiate athletic association" means any athletic association, conference or other group or organization with authority over intercollegiate sports including, but not limited to, the National Collegiate Athletic Association;

3. "Postsecondary institution" means any state educational institution or private educational institution as defined in Section 3102 of Title 70 of the Oklahoma Statutes;

4. "Professional representation" includes, but is not limited to, representation provided by an athlete agent holding a certificate of registration under the Revised Uniform Athlete Agents Act or an attorney duly admitted to practice law in this state;

5. "Sponsor" means an individual or organization that receives institutional recognition for its financial support or other contributions in support of a postsecondary institution or its departments or programs;

6. "Student athlete" shall have the same meaning as defined in the Revised Uniform Athlete Agents Act; and

7. "Team contract" means a contract between a postsecondary institution or a postsecondary institution's athletic department and a sponsor or a third party authorized to enter into a sponsorship agreement or agreements on behalf of a postsecondary institution.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.23 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in the Student Athlete Name, Image and Likeness Rights Act, a student athlete may earn compensation commensurate with market value for the use of the name, image or likeness of the student athlete while enrolled at a postsecondary institution without penalty or resulting limitation on participation. Compensation for the use of a student athlete's name, image or likeness shall not affect the student athlete's eligibility for athletic grant-in-aid.

B. A student athlete shall not earn compensation in exchange for his or her athletic performance or participation in intercollegiate athletics or sports competition. Compensation shall not be provided as an inducement for athletic performance or to attend or enroll at a particular institution.

C. A postsecondary institution, an entity whose purpose includes supporting or benefitting the postsecondary institution or its athletic programs or an officer, director or employee of such postsecondary institution or entity shall not provide professional representation, compensate or cause compensation to be directed to a current or prospective student athlete for his or her name, image or likeness. A scholarship from a postsecondary institution in which a student athlete is enrolled that provides him or her with the cost of attendance, as defined by an applicable collegiate athletic association, at the institution shall not be considered compensation for purposes of this Act.

D. A collegiate athletic association shall not, and shall not authorize its member institutions to:

1. Prevent a student athlete at a postsecondary institution from earning compensation from the use of his or her name, image or likeness;

2. Prevent a postsecondary institution from participation in intercollegiate athletics because a student athlete in attendance has previously earned or intends to earn compensation for the use of his or her name, image or likeness;

3. Provide a prospective student athlete with compensation in relation to the use of his or her name, image or likeness;

4. Penalize a student athlete or prevent a student athlete from full participation in an intercollegiate sport because he or she obtains professional representation in relation to a contract or other legal matter; or

5. Allow compensation earned by a student athlete for the use of his or her name, image or likeness or athletic reputation to affect the amount, duration or renewal of or eligibility for any athletic grant-in-aid or other institutional scholarship; provided, however, compensation earned by a student athlete for the use of his or her name, image or likeness or athletic reputation may be used for the calculation of income for determining eligibility for need-based financial aid.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.24 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A student athlete may obtain professional representation by an athlete agent or attorney for the purpose of securing compensation for the use of his or her name, image or likeness without penalty, resulting limitation on participation or effect on the student-athlete's athletic grant-in-aid eligibility.

B. Professional representation provided by athlete agents shall be by persons licensed pursuant to the Revised Uniform Athlete Agents Act or superseding law. An athlete agent representing a student athlete shall comply with the federal Sports Agent Responsibility and Trust Act, Chapter 104, Section 7801 et seq. of Title 15 of the United States Code.

C. A student athlete who enters into a contract providing compensation to the student athlete for use of his or her name, image or likeness shall disclose the contract in a manner designated by the postsecondary institution, but in any event within seventy-two (72) hours after entering into the contract or before the next athletic event in which the student athlete is eligible to participate, whichever occurs first.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.25 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A student athlete shall not enter into a contract that provides compensation to the student athlete for use of his or her name, image or likeness if a provision of the contract is in conflict with a provision of the postsecondary institution's team contract.

B. A student athlete shall not enter into a contract with a third party that provides compensation to the student athlete for use of his or her name, image or likeness or athletic reputation if:

1. The contract requires the student athlete to display the third party's apparel or to otherwise advertise for the third-party during team activities;

2. Compliance with the third-party contract would conflict with a team contract; or

3. The contract allows for the use or consents to the use of any institutional marks during the student athlete's third-party contract activities.

C. A team contract of a postsecondary institution entered into, modified or renewed on or after the effective date of this Act shall not prevent a student athlete from using his or her name, image or likeness for a commercial purpose when the student athlete is not engaged in team activities.

D. A student athlete shall not enter into a name, image and likeness agreement involving a commercial product or service that

conflicts with a written policy of the postsecondary institution which is in compliance with the bylaws and legislation of the applicable collegiate athletic association including, but not limited to, sports wagering or banned substances or that negatively impacts or reflects adversely on the postsecondary institution or its athletic programs including, but not limited to, generating public disrepute, embarrassment, scandal, ridicule or otherwise negatively impacting the reputation or the moral or ethical standards of the postsecondary institution.

E. A contract for the use of a student athlete's name, image or likeness that is formed while the student athlete is participating in an intercollegiate sport at a postsecondary educational institution may not extend beyond the student athlete's participation in the sport at the institution.

F. Nothing in the Student Athlete Name, Image and Likeness Rights Act shall be construed to authorize a student athlete to assert any right or interest as a party to or intended beneficiary of team contracts or to create a right of one or more student athletes to participate in the negotiation, awarding or earnings of team contracts.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 820.26 of Title 70, unless there is created a duplication in numbering, reads as follows:

Each postsecondary institution shall determine a date on or before July 1, 2023, upon which the provisions of the Student Athlete Name, Image and Likeness Rights Act will be recognized by the postsecondary institution.

SECTION 26. AMENDATORY 78 O.S. 2011, Section 53, is amended to read as follows:

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

1. Passes off goods or services as those of another;

2. Knowingly makes a false representation as to the source, sponsorship, approval, or certification of goods or services;

3. Knowingly makes a false representation as to affiliation, connection, association with, or certification by another;

4. Uses deceptive representations or designations of geographic origin in connection with goods or services;

5. Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits or quantities of goods or services or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith;

6. Represents that goods are original or new if they are not;

7. Represents that goods or services are a particular standard, quality, or grade, or that goods are a particular style or model, if they are another;

8. Disparages the goods, services, or business of another by false or misleading representation of fact;

9. Advertises goods or services which differ from those offered for sale in the advertisements;

10. Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

11. Makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

12. Advertises the price of an item after deduction of a rebate unless the actual selling price is advertised and clear and conspicuous notice is given in the advertisement that a mail-in rebate is required to achieve the lower net price;

13. Misrepresents the geographic location of the supplier by listing a fictitious business name or an assumed business name in a local telephone directory if:

- a. the name misrepresents the geographic location of the supplier,

- b. the listing fails to identify the locality and state of the business of the supplier,
- c. calls to the local telephone number are routinely forwarded or otherwise transferred to a business location that is outside the calling area covered by the local telephone directory, or
- d. the business location of the supplier is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory;
~~or~~

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

- a. the name misrepresents the geographic location of the supplier,
- b. calls to the local telephone number are routinely forwarded or otherwise transferred to a business location that is outside the local calling area, or
- c. the business location of the supplier is located in a county that is not contiguous to a county in the local calling area; or

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

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

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

SECTION 27. AMENDATORY 78 O.S. 2011, Section 54, is amended to read as follows:

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

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

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

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

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

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

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

E. Any duly organized and existing trade association, whether incorporated or not, is hereby authorized to institute and prosecute a suit or suits for injunctive relief hereunder as the real party in interest, for or on behalf of one or more of its members, when a

deceptive trade practice directly or indirectly affects or threatens to affect or injure such member or members.

SECTION 28. REPEALER 70 O.S. 2011, Sections 821.81, 821.82, 821.83, 821.84, 821.85, as amended by Section 1, Chapter 173, O.S.L. 2012, 821.86, 821.87, 821.88, 821.89, 821.90, 821.91, 821.92, 821.93, 821.94, 821.95, 821.96, 821.97, 821.98 and 821.99 (70 O.S. Supp. 2020, Section 821.85), are hereby repealed.

SECTION 29. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 19th day of May, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of May, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____