

107TH CONGRESS
2^D SESSION

H. R. 4701

To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2002

Mr. GORDON (for himself, Mr. OSBORNE, Mr. DINGELL, Mr. TOWNS, Mr. STEARNS, Mr. JOHN, and Mr. CLEMENT) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sports Agent Respon-
5 sibility and Trust Act”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act—

1 (1) the term “Commission” means the Federal
2 Trade Commission;

3 (2) the term “agent” means an individual who
4 enters into an agency contract with a student ath-
5 lete, or directly or indirectly recruits or solicits a
6 student athlete to enter into a contract, and does
7 not include a spouse, parent, sibling, grandparent, or
8 guardian of such student athlete, or an individual
9 acting solely on behalf of a professional sports team
10 or professional sports organization;

11 (3) the term “student athlete” means an indi-
12 vidual who engages in, is eligible to engage in, or
13 may be eligible in the future to engage in, any inter-
14 collegiate sport;

15 (4) the term “intercollegiate sport” means a
16 sport played at the collegiate level for which eligi-
17 bility requirements for participation by a student
18 athlete are established by a national association for
19 the promotion or regulation of college athletics;

20 (5) the term “athletic director” means an indi-
21 vidual responsible for administering the athletic pro-
22 gram of an educational institution or, in the case
23 that such program is administered separately, the
24 athletic program for male students or the athletic
25 program for female students, as appropriate;

1 (6) the term “agency contract” means an
2 agreement in which a student athlete authorizes an
3 agent to negotiate or solicit on behalf of the student
4 athlete a professional sports contract or an endorse-
5 ment contract;

6 (7) the term “endorsement contract” means an
7 agreement under which an individual is employed or
8 receives consideration for the use by the other party
9 of that individual’s person, name, image, or likeness
10 in the promotion of any product, service, or event;

11 (8) the term “professional sports contract”
12 means an agreement under which an individual is
13 employed, or agrees to render services, as a player
14 on a professional sports team, with a professional
15 sports organization, or as a professional athlete; and

16 (9) the term “State” means a State of the
17 United States, the District of Columbia, Puerto
18 Rico, the United States Virgin Islands, or any terri-
19 tory or insular possession subject to the jurisdiction
20 of the United States.

1 **SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS**
2 **AND PRACTICES IN CONNECTION WITH THE**
3 **CONTACT BETWEEN A SPORTS AGENT AND A**
4 **STUDENT ATHLETE.**

5 (a) **CONDUCT PROHIBITED.**—It is unlawful for an
6 agent to—

7 (1) directly or indirectly recruit or solicit a stu-
8 dent athlete to enter into an agency contract, by—

9 (A) giving any false or misleading informa-
10 tion or making a false promise or representa-
11 tion; or

12 (B) providing anything of value to a stu-
13 dent athlete before the student athlete enters
14 into an agency contract;

15 (2) enter into an agency contract with a stu-
16 dent athlete without providing the student athlete
17 with the disclosure document described in subsection
18 (b); or

19 (3) predate or postdate an agency contract.

20 (b) **REQUIRED DISCLOSURE BY AGENTS TO STU-**
21 **DENT ATHLETES.**—

22 (1) **IN GENERAL.**— In conjunction with the
23 signing of an agency contract, an agent shall provide
24 to the student athlete a disclosure document that
25 meets the requirements of this subsection. Such dis-
26 closure document is separate from and in addition to

1 any disclosure which may be required under State
2 law.

3 (2) SIGNATURE OF STUDENT ATHLETE.—The
4 disclosure document must be signed by the student
5 athlete prior to the signing of the agency contract.

6 (3) REQUIRED LANGUAGE.—The disclosure doc-
7 ument must contain, in close proximity to the signa-
8 ture of the student athlete, a conspicuous notice in
9 boldface type in capital letters stating: “WARNING
10 TO STUDENT ATHLETE: IF YOU SIGN THIS
11 CONTRACT YOU MAY LOSE YOUR ELIGI-
12 BILITY TO COMPETE AS A STUDENT ATH-
13 LETE IN YOUR SPORT.”.

14 **SEC. 4. ENFORCEMENT.**

15 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A
16 violation of this Act shall be treated as a violation of a
17 rule defining an unfair or deceptive act or practice pre-
18 scribed under section 18(a)(1)(B) of the Federal Trade
19 Commission Act (15 U.S.C. 57a(a)(1)(B)).

20 (b) ACTIONS BY THE COMMISSION.—The Commis-
21 sion shall enforce this Act in the same manner, by the
22 same means, and with the same jurisdiction, powers, and
23 duties as though all applicable terms and provisions of the
24 Federal Trade Commission Act (15 U.S.C. 41 et seq.)
25 were incorporated into and made a part of this Act.

1 **SEC. 5. ACTIONS BY STATES.**

2 (a) IN GENERAL.—

3 (1) CIVIL ACTIONS.—In any case in which the
4 attorney general of a State has reason to believe
5 that an interest of the residents of that State has
6 been or is threatened or adversely affected by the
7 engagement of any person in a practice that violates
8 section 3 of this Act, the State may bring a civil ac-
9 tion on behalf of the residents of the State in a dis-
10 trict court of the United States of appropriate juris-
11 diction to—

12 (A) enjoin that practice;

13 (B) enforce compliance with this Act;

14 (C) obtain damage, restitution, or other
15 compensation on behalf of residents of the
16 State; or

17 (D) obtain such other relief as the court
18 may consider to be appropriate.

19 (2) NOTICE.—

20 (A) IN GENERAL.—Before filing an action
21 under paragraph (1), the attorney general of
22 the State involved shall provide to the
23 Commission—

24 (i) written notice of that action; and

25 (ii) a copy of the complaint for that
26 action.

1 (B) EXEMPTION.—Subparagraph (A) shall
2 not apply with respect to the filing of an action
3 by an attorney general of a State under this
4 subsection, if the attorney general determines
5 that it is not feasible to provide the notice de-
6 scribed in that subparagraph before filing of the
7 action. In such case, the attorney general of a
8 State shall provide notice and a copy of the
9 complaint to the Commission at the same time
10 as the attorney general files the action.

11 (b) INTERVENTION.—

12 (1) IN GENERAL.—On receiving notice under
13 subsection (a)(2), the Commission shall have the
14 right to intervene in the action that is the subject
15 of the notice.

16 (2) EFFECT OF INTERVENTION.—If the Com-
17 mission intervenes in an action under subsection (a),
18 it shall have the right—

19 (A) to be heard with respect to any matter
20 that arises in that action; and

21 (B) to file a petition for appeal.

22 (c) CONSTRUCTION.—For purposes of bringing any
23 civil action under subsection (a), nothing in this title shall
24 be construed to prevent an attorney general of a State

1 from exercising the powers conferred on the attorney gen-
2 eral by the laws of that State to—

3 (1) conduct investigations;

4 (2) administer oaths or affirmations; or

5 (3) compel the attendance of witnesses or the
6 production of documentary and other evidence.

7 (d) ACTIONS BY THE COMMISSION.—In any case in
8 which an action is instituted by or on behalf of the Com-
9 mission for a violation of section 3, no State may, during
10 the pendency of that action, institute an action under sub-
11 section (a) against any defendant named in the complaint
12 in that action—

13 (e) VENUE.—Any action brought under subsection
14 (a) may be brought in the district court of the United
15 States that meets applicable requirements relating to
16 venue under section 1391 of title 28, United States Code.

17 (f) SERVICE OF PROCESS.—In an action brought
18 under subsection (a), process may be served in any district
19 in which the defendant—

20 (1) is an inhabitant; or

21 (2) may be found.

22 **SEC. 6. NOTICE TO EDUCATIONAL INSTITUTION.**

23 (a) NOTICE REQUIRED.—Within 72 hours after en-
24 tering into an agency contract or before the next athletic
25 event in which the student athlete may participate, which-

1 ever occurs first, the agent and the student athlete shall
2 each inform the athletic director of the educational institu-
3 tion at which the student athlete is enrolled, or other indi-
4 vidual responsible for athletic programs at such edu-
5 cational institution, that the student athlete has entered
6 into an agency contract, and the agent shall provide the
7 athletic director with notice in writing of such a contract.

8 (b) CIVIL REMEDY.—

9 (1) IN GENERAL.—An educational institution
10 has a right of action against an agent for damages
11 caused by such agent's failure to provide notice as
12 required in subsection (a).

13 (2) DAMAGES.—Damages of an educational in-
14 stitution may include losses and expenses incurred
15 because, as a result of the conduct of the agent, the
16 educational institution was injured by being penal-
17 ized, disqualified, or suspended from participation in
18 athletics by a national association for the promotion
19 and regulation of athletics, by an athletic conference,
20 or by reasonable self-imposed disciplinary action
21 taken to mitigate actions likely to be imposed by
22 such an association or conference.

23 (3) COSTS AND ATTORNEYS FEES.—In an ac-
24 tion taken under this section, the court may award

1 to the prevailing party costs and reasonable attor-
2 neys fees.

3 (4) LIABILITY.—Any liability of the agent or
4 the former student athlete under this section is sev-
5 eral and not joint.

6 (5) EFFECT ON OTHER RIGHTS, REMEDIES AND
7 DEFENSES.—This section does not restrict the
8 rights, remedies, or defenses of any person under
9 law or equity.

10 **SEC. 7. SENSE OF CONGRESS.**

11 It is the sense of Congress that States should enact
12 the Uniform Athlete Agents Act of 2000 drafted by the
13 National Conference of Commissioners on Uniform State
14 Laws, to protect student athletes and the integrity of ama-
15 teur sports from unscrupulous sports agents. In par-
16 ticular, it is the sense of Congress that States should enact
17 the provisions relating to the registration of sports agents,
18 the required form of contract, the right of the student ath-
19 lete to cancel an agency contract, the disclosure require-
20 ments relating to record maintenance, reporting, renewal,
21 notice, warning, and security, and the provisions for reci-
22 procuity among the States.

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