

Department of Legislative Services
 Maryland General Assembly
 2003 Session

FISCAL AND POLICY NOTE

House Bill 361
 Economic Matters

(Delegate Rosenberg)

Finance

Maryland Uniform Athlete Agents Act

This bill provides for the registration, certification, and background check of athlete agents seeking to represent student-athletes who are or may be eligible to participate in intercollegiate sports. The bill also imposes specified contract terms on these agreements to the benefit of student-athletes, and provides educational institutions with a right to notice along with a civil cause of action for damages resulting from a breach of specified duties.

Fiscal Summary

State Effect: The bill replaces and updates the current Maryland Sports Agents Act. General fund revenues will decrease \$13,000 in FY 2005 and odd-numbered out-years due to the bill's two-year license cycle. The current license cycle is annual. Potential minimal increase in general funds due to the bill's penalty provisions.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
GF Revenue	\$0	(\$13,000)	\$0	(\$13,000)	\$0
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$0	(\$13,000)	\$0	(\$13,000)	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: This bill, the Maryland Uniform Athlete Agent Act (MUAAA), replaces the current Maryland Sports Agents Act, which is repealed. The bill updates and adds to current requirements for athlete agents. Athlete agents must register with the Secretary of Labor, Licensing, and Regulation (DLLR) for a term of two years. Fees for an initial license and for license renewal are set at \$1,000. The bill applies to any athlete agent who has contact with any student-athlete in Maryland.

Provided that notifications are given to the specified educational institution(s), a student-athlete may enter into an agency contract at any time. The contract between an athlete agent and a student-athlete must contain specified information relating to payment and services. A contract must contain a conspicuous warning to the student-athlete regarding the student-athlete's eligibility and responsibility of notification if an agency contract is signed.

The bill sets forth the registration requirements for an athlete agent. It provides safe harbor if a student-athlete initiates contact, provided the athlete agent applies to register within seven days of the initial contact.

In addition to general personal information currently required, the bill requires an applicant to state whether the applicant or other named party has been:

- convicted of a felony or crime involving moral turpitude;
- determined, administratively or judicially, to have made a false, misleading, deceptive, or fraudulent representation;
- sanctioned, suspended, or received disciplinary action arising out of occupational or professional misconduct; and
- denied application, or has had a license suspended or revoked, or has been denied renewal of registration or licensure as an athlete agent in any state.

Under specified conditions an applicant may apply for registration or renewal of registration in Maryland by submitting a copy of the application information and proof of registration or licensure from another state.

The Secretary may refuse to issue a certificate of registration and, under specified procedures, may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration.

The bill specifies actions or activities that constitute a violation of MUAAA by an athlete agent, and provides a misdemeanor penalty with a fine of not more than \$10,000, imprisonment of up to one year, or both. These actions include using false or misleading statements in solicitation of a student-athlete; pre-dating or post-dating a contract; receiving compensation from a sports league, franchise, their representative, or an employee of an institution of higher education.

An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of MUAAA. A right of action under this section does not accrue until the educational institution discovers, or would have discovered, the violation. Liability of the athlete agent or the former student-athlete is several and not joint. The Secretary may assess a civil penalty of not more than \$25,000 against an athlete agent, and the court may award costs and reasonable attorney's fees to the prevailing party.

The bill contains provisions regarding the uniform application of MUAAA with respect to other states that enact similar legislation, and the applicability of the Electronic Signatures in Global and National Commerce Act governing the use of electronic records, signatures, or contracts. The Secretary of State will act as the agent for service of process in any civil action in the State related to a nonresident acting as an athlete agent in the State, and may serve subpoenas for any material relevant to the administration of MUAAA.

Current Law: Under the Maryland Sports Agents Act, sports agents register through the Secretary of DLLR for a one-year term and pay an annual fee of \$1,000. DLLR reports there are currently 13 registered sports agents in Maryland.

A sports agent may not enter into a contract with a local student-athlete before the athlete's last high school or intercollegiate event. Contact with a local student-athlete is limited to marketing an agent's skills and services. There are provisions related to the athlete's ability to void and cancel contracts.

A sports agent applicant is not required in statute to divulge information in the application about the applicant or specified associates related to convictions, sanctions, determinations, or suspensions related to personal or professional actions. The Secretary may deny an applicant a license or reprimand a licensed agent, or suspend or revoke a license, following a specified process, for specified causes.

Current civil penalties specify that an agent must return any consideration received from, and forfeit anything of value given to, a local athlete and pay reasonable attorney's fees

and court costs incurred by the athlete. Criminal violations may result in conviction of a misdemeanor with up to a \$10,000 fine, imprisonment not exceeding one year, or both.

There are no provisions relating to cause of action for injury suffered by an educational institution that was caused by a sports agent or former student-athlete.

Background: The bill closely follows draft legislation produced by the National Conference of Commissioners on Uniform State Law (NCCUSL). The organization is comprised of more than 300 lawyers, judges, and law professors who draft model laws on subjects such as family law, electronic transactions, and health care, and work toward their enactment in state legislatures.

The NCCUSL draft legislation has been adopted in similar form by 15 states, including Pennsylvania, Delaware, West Virginia; the U.S. Virgin Islands; and the District of Columbia. Eleven states are considering similar legislation this year.

Additional Information

Prior Introductions: In 2002, a similar bill (HB 374), was assigned to the House Economic Matters Committee and received an unfavorable report.

Cross File: None.

Information Source(s): Office of Administrative Hearings; Department of Labor, Licensing, and Regulation; University System of Maryland; National Conference of Commissioners on Uniform State Law; Department of Legislative Services

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