

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/10/2017**

Bill/Resolution No.: HB 1212

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
<b>Counties</b>	\$0	\$0	\$0
<b>Cities</b>	\$0	\$0	\$0
<b>School Districts</b>	\$0	\$0	\$0
<b>Townships</b>	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill is revenue and expenditure neutral, as it compares to current operations. This is a uniform law that is replacing current law related to the same subject with no changes in fees or administrative costs.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

None - see response 2 A

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None -see response 2 A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None- see response 2 A

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

None requested - see 2 A.

**Name:** Al Jaeger

**Agency:** Secretary of State

**Telephone:** 701-328-2900

**Date Prepared:** 01/11/2017

**2017 HOUSE EDUCATION**

**HB 1212**

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

HB 1212  
1/17/2017  
Job 26986

- Subcommittee  
 Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

Relating to the Revised Uniform Athlete Agents Act, and the Uniform Athlete Agents Act.

## Minutes:

Attachments 1, 2, and 3.

**Representative Klemin:** See attachments 2, and 3 for testimony and examples.

**Chairman- Mark S. Owens:** Representative Klemin, if I can just ask you to wait a second. We discovered a number of us, and probably all of us have the first two pages of the bill, it appears that the bill is longer than two pages.

**Representative Klemin:** it is. He does not have it, he's got it.

**Chairman- Mark S. Owens:** yes it's online for a number of them they have it online, I just, he is making copies, I just wanted to make sure that the committee was not looking at the whole bill.

**Representative Klemin:** well I am going to go through this whole bill.

**Chairman- Mark S. Owens:** it will just be a moment.

**Representative Klemin:** I will just stand at ease then.

**Chairman- Mark S. Owens:** Please. I read the title and everything and scheduled it appropriately. I really had this scheduled for next Monday, originally. I knew I already had that somewhere. I am just going to stick that in here. (moment of pause while the whole bill was being retrieved)

**Kyle Medeiros (legal intern):** Representatives Owens we have a problem, looks like the original bill came off the house floor, and was printed wrong with only the two pages. So the clerk's office is coordinating with them right now. Eddie is literally doing laps, so he is running, it might be a few minutes, and the clerks said we cannot print off the 16 pages for guys, because it is not even good.



**Rep. Denton Zubke:** other than that things are going good.

**Chairman- Mark S. Owens:** that is what I get for moving you Representative Klemin from next Monday up to this Tuesday. Would that work for you Representative Klemin if we did this at 2 o'clock?

**Representative Klemin:** Mr. Chairman today Larry Klemin day in the judiciary committee, and I was able to get through two of my bills, there is still one left over there that was probably moved to this afternoon.

**Chairman- Mark S. Owens:** understood. If they are saying that they need to rebuild the bill, I do not know when we are going to get it.

**Representative Klemin:** I understand.

**Chairman- Mark S. Owens:** we can certainly try that, most of you have electronical copies, and you can follow along that way. I don't know if he has it set up. The recording is on, ok. Call committee back to order, Representative Klemin we will take your testimony, the majority of the committee does have the ability to follow along online.

**Representative Klemin:** See attachments 2, and 3 for testimony and examples.

**Rep. Rich S. Becker:** Just one minor question, did I hear you say correctly that the student or the parent can negate a signing of a contract within 14 days.

**Representative Klemin:** that is true, the parent or guardian can only do it if the athlete agent, excuse me, if the student athlete is minor. So then the parent would be acting on behalf of the student athlete, so if the athlete was 17 years old out of high school they can do it that way, and it is 14 days.

**Chairman- Mark S. Owens:** any further questions, seeing none thank you. Any other testimony in support of HB1212.

**Rena Bloms:** With the Secretary of State office, just a little background, athlete agents first appeared in the century code in 1995, as Representative Klemin said we did enact the previous uniform athlete agent act in 2003, which is chapter 9-15. So the current revision the 2015 uniform act would replace the current law, the revision enacted in three states and being considered in three additional states which in one is in North Dakota, there is a map attached. See Attachment 1 for map. As of the state our office has about 16 athlete agents registered, the administrative responsibilities for our office do not change in this bill, the fees that are required to register as an athlete agent would not change for our office or any of those in this bill. I would entertain any questions if there is any.

**Chairman- Mark S. Owens:** Any questions from the committee, seeing none, thank you. Anyone else in support of HB 1212.

**Tony Weiler:** I am executive director of the state bar association, I represent lawyers in North Dakota's 3000 licensed North Dakota attorneys and the state bar association as our

professional association. We have a history of supporting uniform laws, and arise on the point of this, so my testimony me too, plus I don't think I have been able to appear in front of house education, so that is exciting, and I look around the room and I do not see a lot of opposition and so that is always a good thing too. We support the legislation, and encourage a do pass Mr. Chairman.

**Chairman- Mark S. Owens:** are there any questions, anyone else in support to 1212, anyone in opposition to 1212, anyone neutral to 1212. Closing the hearing on HB 1212.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Education Committee  
Coteau A Room, State Capitol

HB 1212  
1/17/2017  
Job 27022

- Subcommittee  
 Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

Relating to the Revised Uniform Athlete Agents Act, and the Uniform Athlete Agents Act.

## Minutes:

No Attachments.

**Rep. Brandy Pyle:** how does this work for the hockey players who are recruited with the NHL, they are drafter, and I just do not understand the words.

**Rep. Bill Oliver:** when a hockey player is drafted in college, there is actually an amendment to this statute that says that they can continue to attend college while they are in the minor leagues. Then can continue to play in college, because there are collegiate leagues, that is the only place they can play. They cannot play in the NHL, the first time on the ice, they are out of college. So that is the one there, high school basketball, this is basically for like the high school basketball players that are so good, the Lebron James's, the Kobe Bryants, Kevin Garnet, it is for those people that are that talented that they can come right out and go in, and the NBA is the last of the sports people that allow high school kids to come out and play, it is one of those things, it is to protect the minors, not the ones that are in college, and stuff, because they know what those rules are. They have to learn those before they come in and take a scholarship.

**Chairman- Mark S. Owens:** it sounded like the 14 days were really, were for some college so they do not make a mistake. Ok, any other discussion on HB 1212.

**Rep. Matthew Ruby:** with that, there was something in there that was, that they felt that some athletes that are not aware of them, especially if they go to college that is part of your, if you are going to do a sport in college, I had the same thing, and they have, I could have played semiprofessional football, and if I were to do MMA at the professional level I would have forfeited everything, and that is something that is covered in your orientation, my understanding that is passed down while you are being recruited, that you have to. If you are coming out of high school and you want to NBA, there might be something there, but in the college level.



**Chairman- Mark S. Owens:** and it certainly meant coming out of high school, like Rep. Bill Oliver said, because it talked about being a minor, in North Dakota the minute you hit 18 you are a major now, you are an adult.

**Rep. Bill Oliver:** to go along with what he said, I worked for Indiana University sports department before I actually moved out here, so I had to advise athletes on their responsibilities, and Indiana is part of this coalition, so it was put forth, we lost about 3 or 4 scholarship players in one year because they decided they wanted to go home and play semi-pro basketball, and that is a no-no, they lost their amateur status at that point, and now you have them in the NBA still.

**Rep. Longmuir:** In the bill it states where it has to be bold face large print, by signing this contract you may jeopardize your eligibility to play collegiate sports, so I think that is well covered with this bill, the uniform bills, when you have uniform probate laws, and uniform laws throughout the country it really makes life easier for all of us. This is a good bill.

**Chairman- Mark S. Owens:** There was a question that we were going to talk about yesterday's bill.

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Education Committee**  
Coteau A Room, State Capitol

HB 1212  
1/18/2017  
Job 27069

- Subcommittee  
 Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

Relating to the revised Uniform Athlete Agents Act, and the Uniform Athlete Agents Act.

## Minutes:

No attachments.

**Chairman- Mark S. Owens:** any discussion on HB 1212.

**Rep. Denton Zubke:** I would move a do pass on HB 1212, Rep. Bill Oliver seconded the motion.

**Chairman- Mark S. Owens:** Any discussion, I am waiting to see if you caught up with us. Any discussion, seeing none I will call on the clerk to call roll on HB 1212.

**Clerk:** does roll call vote.

**Chairman- Mark S. Owens:** Do pass on HB 1212, 13-0-1, Rep. Corey Mock is absent, and Rep. Rich S. Becker will carry the bill. This has some sections.

**Rep. Rich S. Becker:** pardon me.

**Chairman- Mark S. Owens:** this has some sections, this one will keep you talking a while. Old Joy.

Date: 1/18/17

Roll Call Vote # 1

2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1212

House Education Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Zubke Seconded By Rep. Oliver

Representatives	Yes	No	Representatives	Yes	No
Chairman- Mark S. Owens	✓		Rep. Andrew Marschall	✓	
Vice Chairman- Cynthia Schreiber-Beck	✓		Rep. Bill Oliver	✓	
Rep. Rich S. Becker	✓		Rep. Brandy Pyle	✓	
Rep. Pat D. Heinert	✓		Rep. Matthew Ruby	✓	
Rep. Dennis Johnson	✓		Rep. Denton Zubke	✓	
Rep. Mary Johnson	✓		Rep. Ron Guggisberg	✓	
Rep. Donald W. Longmuir	✓		Rep. Corey Mock	AB	

Total (Yes) 13 No 0

Absent (1) Rep Mock

Floor Assignment Rep. Becker

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1212: Education Committee (Rep. Owens, Chairman)** recommends **DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1212 was placed on the  
Eleventh order on the calendar.

**2017 SENATE EDUCATION**

**HB 1212**



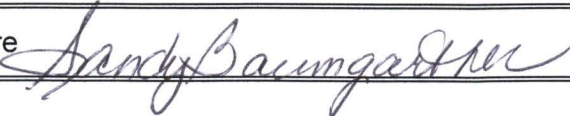
# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

HB 1212  
3/13/2017  
Job Number 29071

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the Uniform Athlete Agents Act; and to provide a penalty

**Minutes:**

#1, #2

**Chairman Schaible:** Call meeting to back to order for HB 1212

**Lawrence Klemm;** Repr. District 47, ND National Uniform Law Commissioner; Testimony #1.

**Chairman Schaible:** Any questions?

**Senator Kannianen:** Does this cover all ages from high school to college?

**Repr. Klemm:** Yes, it protects the student athletic what might be harmful to them and notifies them as to what consequences can do if they sign a contract. It does not prevent them from signing a contract.

**Chairman Schaible:** This offers more protection to the athletic and university. This is the model language from all the states involved with that?

**Repr. Klemm:** This is the uniform act that was adopted by the Uniform Law Commission which is represented by commissioner from all of the states.

**Chairman Schaible:** So each state has to ratify this and accept and vote on this? Are there exceptions?

**Repr. Klemm:** Correct, this is a proposal for adoption by the states that desire to do it. I wouldn't say all states adopt all the uniform acts. They certainly do adopt a lot of them. This is probably one of them that they do.

**Jim Silrun,** Secretary of State: Testimony #2. We have 16 athletic agents in the state at this time and 1 pending. It takes a while to process the information. We encourage support of 1212.

Chairman Schaible: Any questions? Any other testimony?

**Tony Weiler;** Executive Director of the State Bar Association: The bar association has a history of supporting uniform laws and encourage support of 1212.

**Chairman Schaible:** Question? Any opposition? Any other testimony? Close hearing on 1212.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Education Committee**  
Sheyenne River Room, State Capitol

HB 1212  
3/14/2017  
Job Number 29175

- Subcommittee  
 Conference Committee

Committee Clerk Signature *Sandy Baumgartner*

**Explanation or reason for introduction of bill/resolution:**

Relating to the Uniform Athlete Agents Act; and to provide a penalty

**Minutes:**

[Empty box for minutes]

**Chairman Schaible:** Let's look at HB 1212. Any discussion on 1212, uniform state law?

**Senator Rust:** I move for a "Do Pass"

**Senator Oban:** I second.

**Chairman Schaible:** Any discussion on motion. Clerk take roll. 6 Yeas, 0 Nays, 0 absent.

**Senator Vedaa** will carry.

Date: 3-14-2017  
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1212

Senate Education Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rust Seconded By Oban

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	✓		Senator Oban	✓	
Vice-Chairman Rust	✓				
Senator Davison	✓				
Senator Kannianen	✓				
Senator Vedaa	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Vedaa

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1212: Education Committee (Sen. Schaible, Chairman)** recommends **DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1212 was placed on the  
Fourteenth order on the calendar.

**2017 TESTIMONY**

**HB 1212**



Attachment 1  
HB 1212

1/17/17

ALVIN A. JAEGER  
SECRETARY OF STATE

HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



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SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

January 17, 2017

TO: Chairman Mark Owens, and members of House Education Committee

FR: Al Jaeger, Secretary of State

RE: HB 1212 – Uniform Athlete Agents Act

The laws related to Athlete Agents first appeared in the Century Code in 1995 as Chapter 9-15. Those laws were repealed in 2003 and were replaced by the Uniform Athlete Agents Act of 2000, Chapter 9.15.1 (copy enclosed).

The 2015 Revised Uniform Athlete Agents Act in this bill will repeal Chapter 9.15.1 and create a new Chapter 9.15.2. This revision has been enacted in three states and is being considered now in three states, including North Dakota (copy enclosed).

The Revised Uniform Athlete Agents Act (2015) is an update of the Uniform Athlete Agents Act of 2000, which has been enacted in 42 states (copy enclosed). The 2000 Act governs relations among student athletes, athlete agents, and educational institutions, protecting the interests of student athletes and academic institutions by regulating the activities of athlete agents. The Revised Act makes numerous changes to the original act, including expanding the definition of "athlete agent" and "student athlete;" providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements.

As of this date, my office has sixteen athlete agents registered.

The administrative responsibilities in this bill are similar to those already in current law and the fees in the bill (page 10, lines 19 thru 27) remain the same as in the current law.

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**CHAPTER 9-15.1**  
**UNIFORM ATHLETE AGENTS ACT**

**9-15.1-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "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.
2. "Athlete agent" means an individual who enters an agency contract with a student-athlete or recruits or solicits a student-athlete to enter 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.
3. "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.
4. "Contact" means a communication between an athlete agent and a student-athlete to recruit or solicit the student-athlete to enter an agency contract.
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 student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.
6. "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.
7. "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.
8. "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.
9. "Registration" means registration as an athlete agent under this chapter.
10. "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.

**9-15.1-02. Service of process - Subpoenas.**

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's acting as an athlete agent in this state. The secretary of state may issue subpoenas for any material that is relevant to the administration of this chapter.

**9-15.1-03. Athlete agents - Registration required - Void contracts.**

1. Except as otherwise provided in subsection 2, an individual may not act as an athlete agent without holding a certificate of registration.
2. Before being issued a certificate of registration, an individual may act as an athlete agent for all purposes except signing an agency contract, if a student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual and within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent.
3. 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.



**9-15.1-04. Registration as athlete agent.**

1. An applicant for registration shall submit an application for registration to the secretary of state in a form prescribed by the secretary of state. The application must be in the name of an individual and, except as otherwise provided in subsection 2, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:
  - a. The name of the applicant and the address of the applicant's principal place of business.
  - b. The name of the applicant's business or employer, if applicable.
  - c. Any business or occupation engaged in by the applicant for the five years preceding the date of submission of the application.
  - d. A description of the applicant's formal training as an athlete agent, practical experience as an athlete agent, and educational background relating to the applicant's activities as an athlete agent.
  - e. The names and addresses of three individuals not related to the applicant who are willing to serve as references.
  - f. The name, sport, and last-known team for each individual for whom the applicant acted as an athlete agent during the five years preceding the date of submission of the application.
  - g. The names and addresses of all persons who are:
    - (1) With respect to the athlete agent's business if it is not a corporation, the name of the organization, the partners, members, officers, managers, associates, or profit-sharers of the business; and
    - (2) With respect to a corporation employing the athlete agent, the name of the organization, the officers, directors, and any shareholder of the corporation having an interest of five percent or greater.
  - h. Whether the applicant or any person named under subdivision g 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.
  - i. Whether there has been any administrative or judicial determination that the applicant or any person named under subdivision g has made a false, misleading, deceptive, or fraudulent representation.
  - j. Any instance in which the conduct of the applicant or any person named under subdivision g 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.
  - k. Any sanction, suspension, or disciplinary action taken against the applicant or any person named under subdivision g arising out of occupational or professional conduct.
  - l. 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 subdivision g as an athlete agent in any state.
2. 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 subsection 1. The secretary of state shall accept the application and the certificate from the other state as an application for registration if the application to the other state:
  - a. Was submitted in the other state within six months preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;
  - b. Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and
  - c. Was signed by the applicant under penalty of perjury.



**9-15.1-05. Certificate of registration - Issuance or denial - Renewal.**

1. Except as otherwise provided in subsection 2, the secretary of state shall issue a certificate of registration to an individual who complies with subsection 1 of section 9-15.1-04 whose application has been accepted under subsection 2 of section 9-15.1-04.
2. The secretary of state may refuse to issue a certificate of registration if the secretary of state 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 secretary of state may consider whether the applicant has:
  - a. Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;
  - b. Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
  - c. Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
  - d. Engaged in conduct prohibited by section 9-15.1-13;
  - e. 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;
  - f. 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
  - g. Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.
3. In making a determination under subsection 2, the secretary of state shall consider how recently the conduct occurred, the nature of the conduct and the context in which it occurred, and any other relevant conduct of the applicant.
4. An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the secretary of state. 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.
5. 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 subsection 4, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The secretary of state shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:
  - a. Was submitted in the other state within six months preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;
  - b. Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
  - c. Was signed by the applicant under penalty of perjury.
6. A certificate of registration or a renewal of a registration is valid for two years.

**9-15.1-06. Suspension, revocation, or refusal to renew registration.**

The secretary of state may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration.

**9-15.1-07. Temporary registration.**

The secretary of state may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

#### **9-15.1-08. Registration and renewal fees.**

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

1. Two hundred fifty dollars for an initial application for registration.
2. Two hundred fifty dollars for an application for registration based upon a certificate of registration or licensure issued by another state.
3. One hundred fifty dollars for an application for renewal of registration.
4. One hundred fifty dollars for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

#### **9-15.1-09. Required form of contract.**

1. An agency contract must be in a record, signed or otherwise authenticated by the parties. An agency contract must state or contain:
  - a. 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 the contract or for providing the services;
  - b. 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;
  - c. A description of any expenses the student-athlete agrees to reimburse;
  - d. A description of the services to be provided to the student-athlete;
  - e. The duration of the contract; and
  - f. The date of execution.
2. 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 DIRECTORS; AND
  - (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.
3. 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 the contract.
  4. The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

#### **9-15.1-10. Notice to educational institution.**

1. Within seventy-two hours after entering 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 student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.
2. Within seventy-two hours after entering an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that the student-athlete has entered an agency contract.



**9-15.1-11. Student-athlete's right to cancel.**

A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen days after the contract is signed. A student-athlete may not waive the right to cancel an agency contract. 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.

**9-15.1-12. Required records.**

1. An athlete agent shall retain the following records for a period of five years:
  - a. The name and address of each individual represented by the athlete agent;
  - b. Any agency contract entered by the athlete agent; and
  - c. Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter an agency contract.
2. Records required by subsection 1 to be retained are open to inspection by the secretary of state during normal business hours.

**9-15.1-13. Prohibited conduct.**

1. An athlete agent, with the intent to induce a student-athlete to enter an agency contract, may not:
  - a. Give any materially false or misleading information or make a materially false promise or representation;
  - b. Furnish anything of value to a student-athlete before the student-athlete enters the agency contract; or
  - c. Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.
2. An athlete agent may not intentionally:
  - a. Initiate contact with a student-athlete unless registered under this chapter;
  - b. Refuse or fail to retain or permit inspection of the records required to be retained by section 9-15.1-12;
  - c. Fail to register when required by section 9-15.1-03;
  - d. Provide materially false or misleading information in an application for registration or renewal of registration;
  - e. Predate or postdate an agency contract; or
  - f. 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.

**9-15.1-14. Penalty.**

An athlete agent who violates section 9-15.1-13 is guilty of a class A misdemeanor.

**9-15.1-15. Civil remedies.**

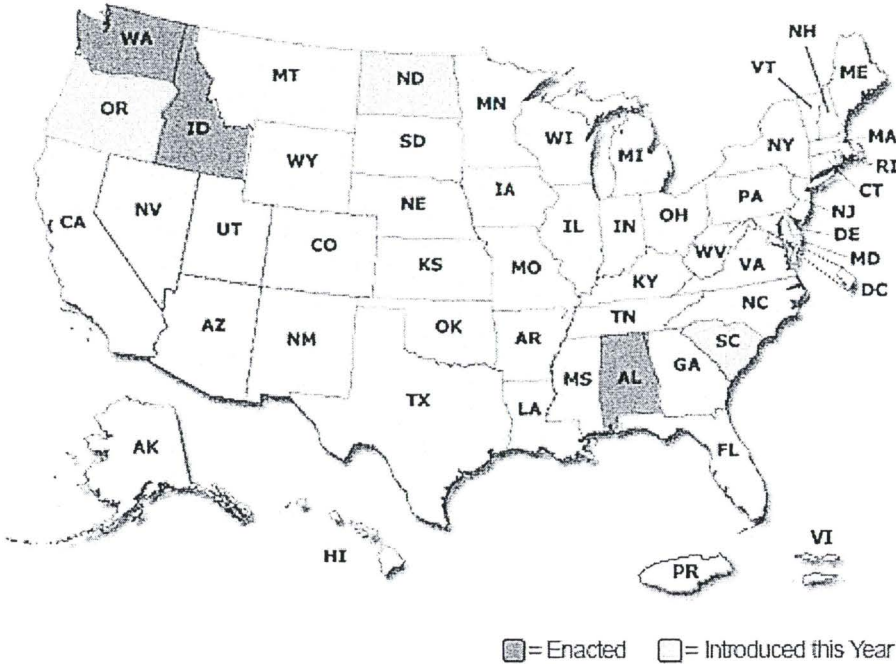
1. An educational institution has a cause of action against an athlete agent or a former student-athlete for damages caused by a violation of this chapter. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.
2. Damages of an educational institution under subsection 1, including losses and expense incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this chapter or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

3. A cause of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.
4. Any liability of the athlete agent or the former student-athlete under this section is several and not joint.
5. This chapter does not restrict rights, remedies, or defenses of any person under law or equity.

**9-15.1-16. Administrative penalty.**

The secretary of state may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars for a violation of this chapter.

### Enactment Status Map 2015



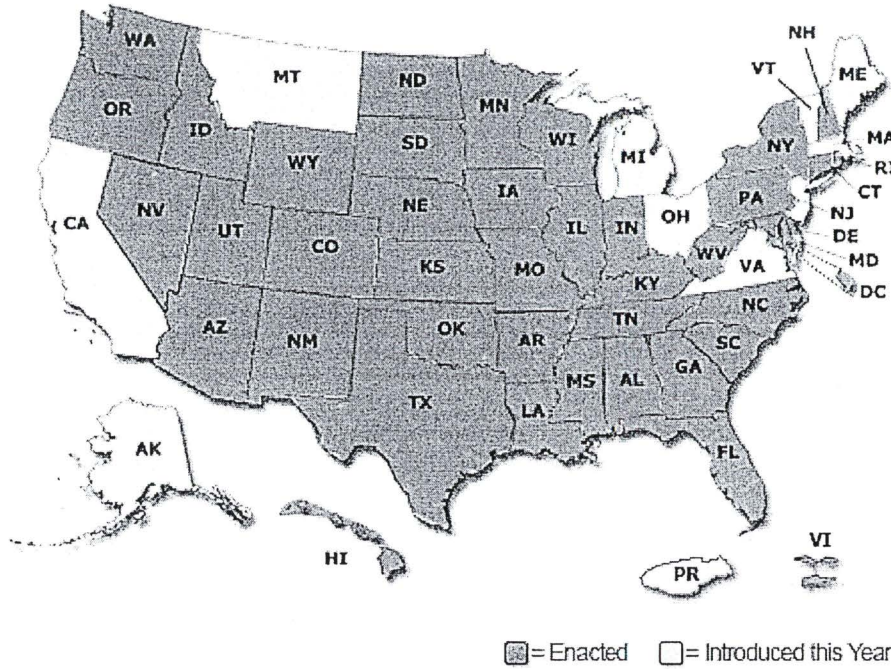
### Legislative Tracking

#### 2017 Introductions & Enactments

State	Bill	Sponsor	Status
North Dakota	HB 1212	Klemin	Introduced
Oregon	SB 5	Courtney	Introduced
South Carolina	SB29/HB3068	Goldfinch/Smith	Introduced

8

Enactment Status Map 2000



Legislative Tracking

2017 Introductions & Enactments

No matches at this time.

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TESTIMONY OF REP. LAWRENCE R. KLEMIN  
HOUSE EDUCATION COMMITTEE  
HOUSE BILL NO. 1212  
JANUARY 17, 2017

Mr. Chairman and Members of the Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I also serve as a Commissioner representing North Dakota on the national Uniform Law Commission (ULC).

The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable. The State of North Dakota has had a long and successful history of enacting ULC acts, including the Uniform Commercial Code, Uniform Anatomical Gifts Act, Uniform Trade Secrets Act, Uniform Transfers to Minors Act, the Uniform Partnership Act, Uniform Probate Code, as well as many others. North Dakota has been a member of the ULC since 1893. I have been a Commissioner since 1999 and have served on many ULC study and drafting committees. North Dakota has enacted 78 uniform acts

I am appearing before you today to testify in support of House Bill 1212, which enacts the Revised Uniform Athlete Agents Act. The Revised Uniform Athlete Agents Act replaces the current Uniform Athlete Agents Act, enacted in North Dakota in 2003 as Chapter 9-15.1 of the North Dakota Century Code. This previous version is being repealed by House Bill 1212. The North Dakota Secretary of State administers the provisions of the Revised Uniform Athlete Agents Act and participated in the preparation of House Bill 1212.

The impetus for revising the Uniform Athlete Agents Act was to provide modernized legislation for the ever-evolving sports commercial marketplace and the increasing improper activity of athlete agents. Under the National Collegiate Athletic Association (NCAA) rules (Bylaw 12.3), if a student athlete has agreed to be represented by an athlete agent for the purpose of marketing his or her athletic ability or reputation in a sport, or has accepted benefits from an athlete agent, that individual becomes ineligible to participate in an intercollegiate sport. This can cause student athletes to lose scholarships and face sanctions they might not expect. If the ineligibility is not disclosed to the school, and an ineligible athlete is allowed to compete in violation of NCAA rules, that school may face a wide variety of sanctions, including suspensions, fines, and the possible loss of post-season play and all the revenue that this might represent.

House Bill 1212 is necessary because it improves current athlete agent law in North Dakota in order to adapt to changing activities in the extremely competitive environment in which athlete agents operate. House Bill 1212 provides rules to not only protect educational institutions in North Dakota, but student athletes that attend them as well. This legislation also delivers clear and succinct guidelines for athlete agents operating within the state.

The Revised Uniform Athlete Agents Act is contained in Section 1 of the bill.



Section 9-15.2-01 contains the definitions that apply to the Act. Subsection 2 of Section 9-15.2-01 broadens the definition of "athlete agent" in to include an individual who: for compensation, procures or attempts to procure employment for a student athlete as an athlete; for compensation or the anticipation of compensation, advises a student athlete on finances, business ventures, or career management or manages the business affairs of a student athlete; or, in anticipation of representing a student athlete as an athlete, gives something of value to a student athlete or another person. This legislation explicitly excludes licensed, registered, or certified professionals acting within the scope of their license, registration, or certification, unless they are also otherwise acting as an athlete agent or receive consideration for providing the services on a different basis than from an individual who is not a student athlete.

Section 9-15.2-02 provides that the Secretary of State has the authority to implement this Act. Registration provisions for athlete agents and sanctions are contained in Sections 9-15.2-03 through 9-15.2-08.

Section 9-15.2-09 enhances agency contract requirements by requiring an agency contract to contain disclosures to student athletes and a warning to the student athlete in boldface type of the consequences of signing an agency contract. This section also contains provisions for parents or guardians to execute or void an agency contract if the athlete is a minor; as well a requirement for a separate record, signed by the student athlete, acknowledging that signing the contract may result in loss of eligibility to participate in the athlete's sport.

Section 9-15.2-10 contains notification requirements mandating an athlete agent to notify the educational institution where a student athlete is enrolled. The athlete agent and the student athlete must both notify the athletic director that the athlete has entered into an agency contract.

Section 9-15.2-11 provides that a student athlete, or the athlete's parent or guardian, if the athlete is a minor, has the right to cancel the agency contract within 14 days after it was signed.

Section 9-15.2-12 requires the athlete agent to maintain certain records and to make them available for inspection by the Secretary of State.

Section 9-15.2-13 describes the conduct of athlete agents that is prohibited.. A violation of this section is a class A misdemeanor, as provided in Section 9-15.2-14.

Section 9-15.2-15 provides civil remedies for educational institutions and student athletes by giving them the right to sue an athlete agent for damages caused by a violation of this Act. They can also recover court costs and reasonable attorney's fees.



In addition, as provided in Section 9-15.2-16, the Secretary of State may assess a civil penalty against the athlete agent not to exceed \$50,000.

Section 2 of House Bill 1212 repeals the old law on athlete agents.

House Bill 1212 will be an important step in modernizing athlete agent regulation in North Dakota. It provides significant requirements for athlete agents, penalties for violation, and remedies for those who are damaged by the conduct of the athlete agent. I urge your support of House Bill 1212. Thank you.



Attachment 3  
HB 1212

# Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

1/17/17  
111 N. Wabash Ave.  
Suite 1010  
Chicago, IL 60602  
(312) 450-6600 tel  
(312) 450-6601 fax  
www.uniformlaws.org

## THE REVISED UNIFORM ATHLETE AGENTS ACT (2015)

- A Summary -

With the immense amount of money at stake for a wide variety of professional athletes and those who represent them, the commercial marketplace in which athlete agents operate is extremely competitive. While seeking to best position one's clients and to maximize their potential income is both legal and good business practice, the recruitment of a student athlete while he or she is still enrolled in an educational institution can and will cause substantial eligibility problems for both the student athlete and the educational institution, which in turn lead to severe economic sanctions and loss of scholarships for the institution. The problem becomes worse where an unethical agent misleads a student, especially where the athlete is not aware of the possible effect of signing the agency agreement or where agency is established without notice to the athletic director of the institution. In an effort to address these problems, the Uniform Law Commission (ULC) drafted the Uniform Athlete Agents Act (UAAA), which was approved in 2000.

The UAAA provided for the uniform registration and certification of individuals who sought to represent student athletes who were or may have been eligible to participate in intercollegiate sports. Agents who were issued a valid certificate of registration or licensure in one state were able to cross-file that application (or a renewal thereof) in all other states that have adopted the act. Individuals who applied for registration as agents were required to disclose their training, experience, and education, whether they or an associate had been convicted of a felony or crime of moral turpitude, had been administratively or judicially determined to have made false or deceptive representations, had their agent's license denied, suspended, or revoked in any state, or had been the subject or cause of any sanction, suspension, or declaration of ineligibility. The UAAA provided a central location where an athlete agent's credentials could be reviewed by the student athlete and the educational institution, which aided a student athlete in selecting a qualified athlete agent.

In addition, the UAAA required athlete agency contracts to contain the amount and method of calculating an agent's compensation, the name of any unregistered person receiving compensation because the athlete signed the agreement, a description of reimbursable expenses and services to be provided, and warnings of the notice requirements imposed under the act. The UAAA further required both athlete agents and student athletes to give notice of the contract to the athletic director of an affected educational institution within 72 hours of signing the agreement, or before the athlete's next scheduled athletic event, whichever occurred first.

The UAAA also prohibited agents from providing materially false or misleading information, promises or representations, with the purpose of getting a student athlete to enter into an agency contract and prohibited providing anything of value to a student athlete or another person before that athlete enters into an agency contract. The UAAA provided that an athlete agent may not intentionally initiate contact with a student athlete unless registered, refuse or willfully fail to keep or permit inspection of required records, fail to register where required, provide materially false or misleading information in an application for registration or renewal thereof, predate or postdate an agency contract, or fail to notify a student athlete (prior to signing) that signing an agency contract may make the student athlete ineligible to participate in that sport, and imposed criminal penalties for violations of this prohibited conduct. The UAAA also provided educational institutions with a civil cause of action for damages resulting from a breach of specified duties.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.

1



The UAAA was revised in 2015 and is now known as the Revised Uniform Athlete Agents Act (RUAAA). The purposes of the RUAAA include providing enhanced protection for student athletes and educational institutions, creating a uniform body of agent registration information for use by state agencies, and simplifying the regulatory environment faced by legitimate athlete agents.

While retaining other portions of the UAAA, the RUAAA makes the following changes:

- “Athlete agent” is further defined to include an individual who, for compensation or the anticipation of compensation, serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes, and an individual who gives something of value to a student athlete or another person in anticipation of representing the athlete for a purpose related to the athlete’s participation in athletics.
- Two alternatives for athlete agent registration are provided. Alternative A includes a true reciprocal registration requirement in that if an individual is issued a certificate of registration by one state, the registration is in good standing and no disciplinary proceedings are pending against the registration, and the law in that state is the same or more restrictive as the law in another state, the other state would be required to register the individual. Alternative B would adopt an interstate compact when the act is enacted by at least five states. The compact would create the Commission on Interstate Regulation of Athlete Agents to provide a single registration site where an individual could register to act as an athlete agent in the states that are members of the compact.
- Additional requirements are added for the signing of an agency contract. The contract must now contain a statement that the athlete agent is registered in the state in which the contract is signed and list any other state in which the agent is registered. The contract must also be accompanied by a separate record signed by the student athlete acknowledging that signing the contract may result in the loss of eligibility to participate in the athlete’s sport.
- An agent is required to notify the educational institution at which a student athlete is enrolled before contacting a student athlete. A violation of this notice requirement is subject to civil penalties. The revised act also contains a provision that requires an athlete agent with a preexisting relationship with a student athlete who enrolls at an educational institution and receives an athletic scholarship to notify the institution of the relationship if the agent knows or should have known of the enrollment and the relationship was motivated by the intention of the agent to recruit or solicit the athlete to enter an agency contract or the agent actually recruited or solicited the student athlete to enter a contract.
- Criminal penalties are added for athlete agents who encourage another individual to take on behalf of the agent an action the agent is prohibited from taking. Student athletes are also given a right of action against an athlete agent in violation of the act.

For further information about the RUAAA, please contact ULC Legislative Counsel Brian Lewis at (312) 450-6619 or [blewis@uniformlaws.org](mailto:blewis@uniformlaws.org).



A Few Facts about  
**THE REVISED UNIFORM ATHLETE AGENTS ACT (2015)**

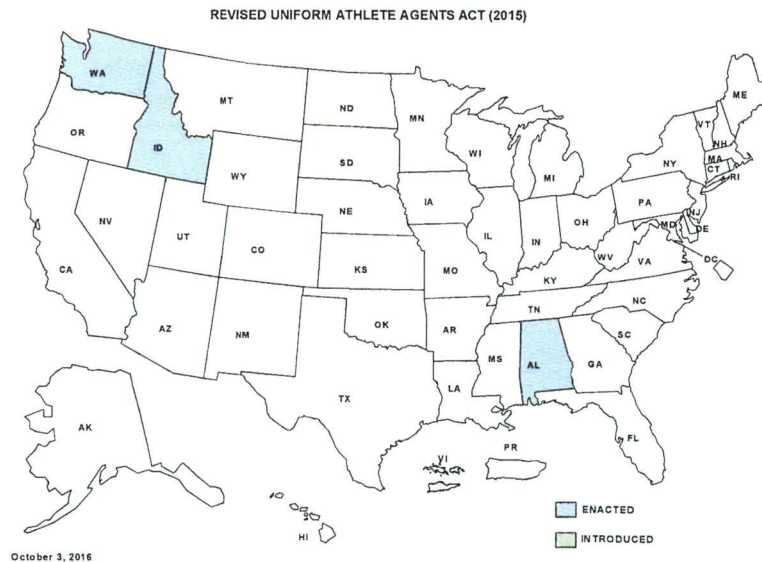
**PURPOSE:** The Revised Uniform Athlete Agents Act (RUAAA) updates the 2000 version of the act due to the increased occurrences of improper activity and benefits between student athletes and agents and for the ever-evolving sports commercial marketplace. The act governs relations among student athletes, athlete agents, and educational institutions. It further protects the interests of student athletes and academic institutions by regulating the activities of athlete agents. The 2015 revision updates the definition of “athlete agent;” requires reciprocal agent licensing; creates a central licensing process; enhances notice requirements to educational institutions; and revises administrative remedies arising from damages resulting from improper athlete agent conduct.

**ORIGIN:** Completed by the Uniform Law Commission in 2015.

**ENDORSED BY:** National Collegiate Athletic Association

**APPROVED BY:** American Bar Association

**ENACTED BY:**



For further information about the RUAAA, please contact ULC Legislative Counsel Brian Lewis at (312) 450-6619 or [blewis@uniformlaws.org](mailto:blewis@uniformlaws.org).

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.





Contact Us: 312.450.6600

## Legislative Fact Sheet - Athlete Agents Act

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**Act** Athlete Agents Act

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**Origin** Completed by the Uniform Law Commissioners in 2000.

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**Description** This act governs relations among student athletes, athlete agents, and educational institutions. It protects the interests of student athletes and academic institutions by regulating the activities of athlete agents.

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**Endorsements**

(Approved by American Bar Association)

(Supported by National Collegiate Athletic Association)

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**Enactments** Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, U.S. Virgin Islands, Utah, Washington, West Virginia, Wisconsin, Wyoming

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**2017 Introductions**

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**Staff Liaison(s)** Brian Lewis

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## WHY YOUR STATE SHOULD ADOPT THE REVISED UNIFORM ATHLETE AGENTS ACT (2015)

The Revised Uniform Athlete Agents Act (RUAAA) modernizes the Uniform Athlete Agents Act (UAAA) for the ever-evolving sports commercial marketplace and the increasing improper activity between athlete agents and student athletes. An athlete agent's recruitment of a student athlete while they are still enrolled in an academic institution may cause substantial eligibility or other problems for both the student athlete and the academic institution. The RUAAA protects the interests of student athletes, academic institutions, and athlete agents by regulating the activities of athlete agents. The revised act updates the UAAA in the following ways:

- ***Expands the definition of "athlete agent"*** to include individuals persons who:
  - (1) for compensation procure or attempt to procure employment for a student athlete.
  - (2) for compensation or the anticipation of compensation advise a student athlete on finance and business affairs of the athlete.
  - (3) in anticipation of representing the athlete give something of value to the athlete or another person.

Licensed, registered, or certified professionals acting within the scope of their license, registration, or certification are excluded unless they are also otherwise acting as an athlete agent or receive consideration for providing the services on a different basis than from an individual who is not a student athlete.

- ***Provides reciprocal and interstate compact registration*** by requiring a mandatory reciprocal registration requirement between states, or alternatively, provides for registration through a multistate agency created by an interstate compact.
- ***Provides, like the UAAA, a central location*** where an athlete agent's credentials can be reviewed by the student athlete and the educational institution, which aids a student athlete in selecting a qualified athlete agent.
- ***Enhances agency contract requirements*** by now requiring an agency contract to contain a statement that the athlete agent is registered in the state where the contract is signed and list any other state in which the athlete agent is registered; as well as a separate record signed by the student athlete acknowledging that signing the contract may result in loss of eligibility to participate in the athlete's sport.

- *Adds notification requirements* mandating an athlete agent to notify the educational institution where a student athlete is enrolled before contacting a student athlete; and when a preexisting relationship between themselves and the student athlete exists, if the relationship was motivated by the intention to recruit the student athlete to enter an agency contract or the agent actually recruited the student athlete to enter a contract and the athlete agent knew or should have known of the enrollment.
- *Provides remedies for student athletes* by giving student athletes the right to sue an athlete agent for damages caused by violation of the act.

For further information about the RUAAA, please contact ULC Legislative Counsel Brian Lewis at (312) 450-6619 or [blewis@uniformlaws.org](mailto:blewis@uniformlaws.org).

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TESTIMONY OF REP. LAWRENCE R. KLEMIN  
SENATE EDUCATION COMMITTEE  
HOUSE BILL NO. 1212  
MARCH 13, 2017

Mr. Chairman and Members of the Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I also serve as a Commissioner representing North Dakota on the national Uniform Law Commission (ULC).

The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable. The State of North Dakota has had a long and successful history of enacting ULC acts, including the Uniform Commercial Code, Uniform Anatomical Gifts Act, Uniform Trade Secrets Act, Uniform Transfers to Minors Act, the Uniform Partnership Act, Uniform Probate Code, Uniform Trust Code, as well as many others. North Dakota has been a member of the ULC since 1893. I have been a Commissioner since 1999 and have served on many ULC study and drafting committees. North Dakota has enacted 78 separate uniform acts, and 170 acts counting revisions and model acts.

I am appearing before you today to testify in support of House Bill 1212, which enacts the Revised Uniform Athlete Agents Act. The Revised Uniform Athlete Agents Act replaces the current Uniform Athlete Agents Act, enacted in North Dakota in 2003 as Chapter 9-15.1 of the North Dakota Century Code. This previous version is being repealed by House Bill 1212. The North Dakota Secretary of State administers the provisions of the Revised Uniform Athlete Agents Act and participated in the preparation of House Bill 1212.

The impetus for revising the Uniform Athlete Agents Act was to provide modernized legislation for the ever-evolving sports commercial marketplace and the increasing improper activity of athlete agents. Under the National Collegiate Athletic Association (NCAA) rules (Bylaw 12.3), if a student athlete has agreed to be represented by an athlete agent for the purpose of marketing his or her athletic ability or reputation in a sport, or has accepted benefits from an athlete agent, that individual becomes ineligible to participate in an intercollegiate sport. This can cause student athletes to lose scholarships and face sanctions they might not expect. If the ineligibility is not disclosed to the school, and an ineligible athlete is allowed to compete in violation of NCAA rules, that school may face a wide variety of sanctions, including suspensions, fines, and the possible loss of post-season play and all the revenue that this might represent.

House Bill 1212 is necessary because it improves current athlete agent law in North Dakota in order to adapt to changing activities in the extremely competitive environment in which athlete agents operate. House Bill 1212 provides rules to not only protect educational institutions in North Dakota, but student athletes that attend them as well. This legislation also delivers clear and succinct guidelines for athlete agents operating within the state.



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3-13-17  
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The Revised Uniform Athlete Agents Act is contained in Section 1 of the bill.

Section 9-15.2-01 contains the definitions that apply to the Act. Subsection 2 of Section 9-15.2-01 broadens the definition of "athlete agent" to include an individual who: for compensation, procures or attempts to procure employment for a student athlete as an athlete; for compensation or the anticipation of compensation, advises a student athlete on finances, business ventures, or career management or manages the business affairs of a student athlete; or, in anticipation of representing a student athlete as an athlete, gives something of value to a student athlete or another person. This legislation explicitly excludes licensed, registered, or certified professionals acting within the scope of their license, registration, or certification, unless they are also otherwise acting as an athlete agent or receive consideration for providing the services on a different basis than from an individual who is not a student athlete.

Section 9-15.2-02 provides that the Secretary of State has the authority to implement this Act. Registration provisions for athlete agents and sanctions are contained in Sections 9-15.2-03 through 9-15.2-08.

Section 9-15.2-09 enhances agency contract requirements by requiring an agency contract to contain disclosures to student athletes and a warning to the student athlete in boldface type of the consequences of signing an agency contract. This section also contains provisions for parents or guardians to execute or void an agency contract if the athlete is a minor; as well a requirement for a separate record, signed by the student athlete, acknowledging that signing the contract may result in loss of eligibility to participate in the athlete's sport.

Section 9-15.2-10 contains notification requirements mandating an athlete agent to notify the educational institution where a student athlete is enrolled. The athlete agent and the student athlete must both notify the athletic director that the athlete has entered into an agency contract.

Section 9-15.2-11 provides that a student athlete, or the athlete's parent or guardian, if the athlete is a minor, has the right to cancel the agency contract within 14 days after it was signed.

Section 9-15.2-12 requires the athlete agent to maintain certain records and to make them available for inspection by the Secretary of State.

Section 9-15.2-13 describes the conduct of athlete agents that is prohibited. A violation of this section is a class A misdemeanor, as provided in Section 9-15.2-14.

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3-13-17  
#1 p.3

Section 9-15.2-15 provides civil remedies for educational institutions and student athletes by giving them the right to sue an athlete agent for damages caused by a violation of this Act. They can also recover court costs and reasonable attorney's fees. In addition, as provided in Section 9-15.2-16, the Secretary of State may assess a civil penalty against the athlete agent not to exceed \$50,000.

Section 2 of House Bill 1212 repeals the old law on athlete agents.

House Bill 1212 will be an important step in modernizing athlete agent regulation in North Dakota. It provides significant requirements for athlete agents, penalties for violation, and remedies for those who are damaged by the conduct of the athlete agent. I urge your support of House Bill 1212. Thank you.

ALVIN A. JAEGER  
SECRETARY OF STATE

HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

March 13, 2017

HB 1212  
#2 p.1  
3-13-17

PHONE (701) 328-2900  
FAX (701) 328-2992

E-MAIL [sos@nd.gov](mailto:sos@nd.gov)

TO: Chairman Donald Schaible, and Members of Senate Education Committee

FR: Al Jaeger, Secretary of State

RE: HB 1212 – Uniform Athlete Agents Act

The laws related to Athlete Agents first appeared in the Century Code in 1995 as Chapter 9-15. Those laws were repealed in 2003 and were replaced by the Uniform Athlete Agents Act of 2000, Chapter 9.15.1 (copy enclosed).

The 2015 Revised Uniform Athlete Agents Act in this bill will repeal Chapter 9.15.1 and create a new Chapter 9.15.2. This revision has been enacted in three states and is being considered now in three states, including North Dakota (copy enclosed).

The Revised Uniform Athlete Agents Act (2015) is an update of the Uniform Athlete Agents Act of 2000, which has been enacted in 42 states (copy enclosed). The 2000 Act governs relations among student athletes, athlete agents, and educational institutions, protecting the interests of student athletes and academic institutions by regulating the activities of athlete agents. The Revised Act makes numerous changes to the original act, including expanding the definition of "athlete agent" and "student athlete;" providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements.

As of this date, my office has sixteen athlete agents registered.

The administrative responsibilities in this bill are similar to those already in current law and the fees in the bill (page 10, lines 19 thru 27) remain the same as in the current law.



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# 2 p. 2

**CHAPTER 9-15.1  
UNIFORM ATHLETE AGENTS ACT**

**9-15.1-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "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.
2. "Athlete agent" means an individual who enters an agency contract with a student-athlete or recruits or solicits a student-athlete to enter 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.
3. "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.
4. "Contact" means a communication between an athlete agent and a student-athlete to recruit or solicit the student-athlete to enter an agency contract.
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 student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.
6. "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.
7. "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.
8. "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.
9. "Registration" means registration as an athlete agent under this chapter.
10. "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.

**9-15.1-02. Service of process - Subpoenas.**

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's acting as an athlete agent in this state. The secretary of state may issue subpoenas for any material that is relevant to the administration of this chapter.

**9-15.1-03. Athlete agents - Registration required - Void contracts.**

1. Except as otherwise provided in subsection 2, an individual may not act as an athlete agent without holding a certificate of registration.
2. Before being issued a certificate of registration, an individual may act as an athlete agent for all purposes except signing an agency contract, if a student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual and within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent.
3. 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.



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**9-15.1-04. Registration as athlete agent.**

1. An applicant for registration shall submit an application for registration to the secretary of state in a form prescribed by the secretary of state. The application must be in the name of an individual and, except as otherwise provided in subsection 2, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:
  - a. The name of the applicant and the address of the applicant's principal place of business.
  - b. The name of the applicant's business or employer, if applicable.
  - c. Any business or occupation engaged in by the applicant for the five years preceding the date of submission of the application.
  - d. A description of the applicant's formal training as an athlete agent, practical experience as an athlete agent, and educational background relating to the applicant's activities as an athlete agent.
  - e. The names and addresses of three individuals not related to the applicant who are willing to serve as references.
  - f. The name, sport, and last-known team for each individual for whom the applicant acted as an athlete agent during the five years preceding the date of submission of the application.
  - g. The names and addresses of all persons who are:
    - (1) With respect to the athlete agent's business if it is not a corporation, the name of the organization, the partners, members, officers, managers, associates, or profit-sharers of the business; and
    - (2) With respect to a corporation employing the athlete agent, the name of the organization, the officers, directors, and any shareholder of the corporation having an interest of five percent or greater.
  - h. Whether the applicant or any person named under subdivision g 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.
  - i. Whether there has been any administrative or judicial determination that the applicant or any person named under subdivision g has made a false, misleading, deceptive, or fraudulent representation.
  - j. Any instance in which the conduct of the applicant or any person named under subdivision g 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.
  - k. Any sanction, suspension, or disciplinary action taken against the applicant or any person named under subdivision g arising out of occupational or professional conduct.
  - l. 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 subdivision g as an athlete agent in any state.
2. 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 subsection 1. The secretary of state shall accept the application and the certificate from the other state as an application for registration if the application to the other state:
  - a. Was submitted in the other state within six months preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;
  - b. Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and
  - c. Was signed by the applicant under penalty of perjury.

**9-15.1-05. Certificate of registration - Issuance or denial - Renewal.**

1. Except as otherwise provided in subsection 2, the secretary of state shall issue a certificate of registration to an individual who complies with subsection 1 of section 9-15.1-04 whose application has been accepted under subsection 2 of section 9-15.1-04.
2. The secretary of state may refuse to issue a certificate of registration if the secretary of state 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 secretary of state may consider whether the applicant has:
  - a. Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;
  - b. Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
  - c. Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
  - d. Engaged in conduct prohibited by section 9-15.1-13;
  - e. 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;
  - f. 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
  - g. Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.
3. In making a determination under subsection 2, the secretary of state shall consider how recently the conduct occurred, the nature of the conduct and the context in which it occurred, and any other relevant conduct of the applicant.
4. An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the secretary of state. 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.
5. 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 subsection 4, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The secretary of state shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:
  - a. Was submitted in the other state within six months preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;
  - b. Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
  - c. Was signed by the applicant under penalty of perjury.
6. A certificate of registration or a renewal of a registration is valid for two years.

**9-15.1-06. Suspension, revocation, or refusal to renew registration.**

The secretary of state may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration.

**9-15.1-07. Temporary registration.**

The secretary of state may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.



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**9-15.1-08. Registration and renewal fees.**

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

1. Two hundred fifty dollars for an initial application for registration.
2. Two hundred fifty dollars for an application for registration based upon a certificate of registration or licensure issued by another state.
3. One hundred fifty dollars for an application for renewal of registration.
4. One hundred fifty dollars for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

**9-15.1-09. Required form of contract.**

1. An agency contract must be in a record, signed or otherwise authenticated by the parties. An agency contract must state or contain:
  - a. 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 the contract or for providing the services;
  - b. 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;
  - c. A description of any expenses the student-athlete agrees to reimburse;
  - d. A description of the services to be provided to the student-athlete;
  - e. The duration of the contract; and
  - f. The date of execution.
2. 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 DIRECTORS; AND**
  - (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**
3. 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 the contract.
  4. The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

**9-15.1-10. Notice to educational institution.**

1. Within seventy-two hours after entering 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 student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.
2. Within seventy-two hours after entering an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that the student-athlete has entered an agency contract.

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**9-15.1-11. Student-athlete's right to cancel.**

A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen days after the contract is signed. A student-athlete may not waive the right to cancel an agency contract. 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.

**9-15.1-12. Required records.**

1. An athlete agent shall retain the following records for a period of five years:
  - a. The name and address of each individual represented by the athlete agent;
  - b. Any agency contract entered by the athlete agent; and
  - c. Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter an agency contract.
2. Records required by subsection 1 to be retained are open to inspection by the secretary of state during normal business hours.

**9-15.1-13. Prohibited conduct.**

1. An athlete agent, with the intent to induce a student-athlete to enter an agency contract, may not:
  - a. Give any materially false or misleading information or make a materially false promise or representation;
  - b. Furnish anything of value to a student-athlete before the student-athlete enters the agency contract; or
  - c. Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.
2. An athlete agent may not intentionally:
  - a. Initiate contact with a student-athlete unless registered under this chapter;
  - b. Refuse or fail to retain or permit inspection of the records required to be retained by section 9-15.1-12;
  - c. Fail to register when required by section 9-15.1-03;
  - d. Provide materially false or misleading information in an application for registration or renewal of registration;
  - e. Predate or postdate an agency contract; or
  - f. 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.

**9-15.1-14. Penalty.**

An athlete agent who violates section 9-15.1-13 is guilty of a class A misdemeanor.

**9-15.1-15. Civil remedies.**

1. An educational institution has a cause of action against an athlete agent or a former student-athlete for damages caused by a violation of this chapter. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.
2. Damages of an educational institution under subsection 1, including losses and expense incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this chapter or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.



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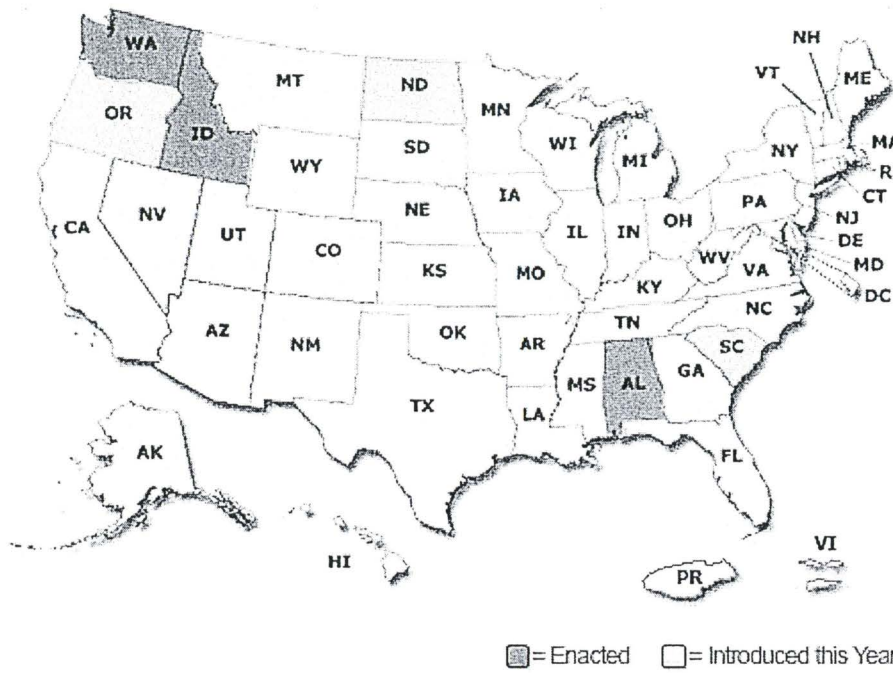
3. A cause of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.
4. Any liability of the athlete agent or the former student-athlete under this section is several and not joint.
5. This chapter does not restrict rights, remedies, or defenses of any person under law or equity.

**9-15.1-16. Administrative penalty.**

The secretary of state may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars for a violation of this chapter.

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**Enactment Status Map** 2015



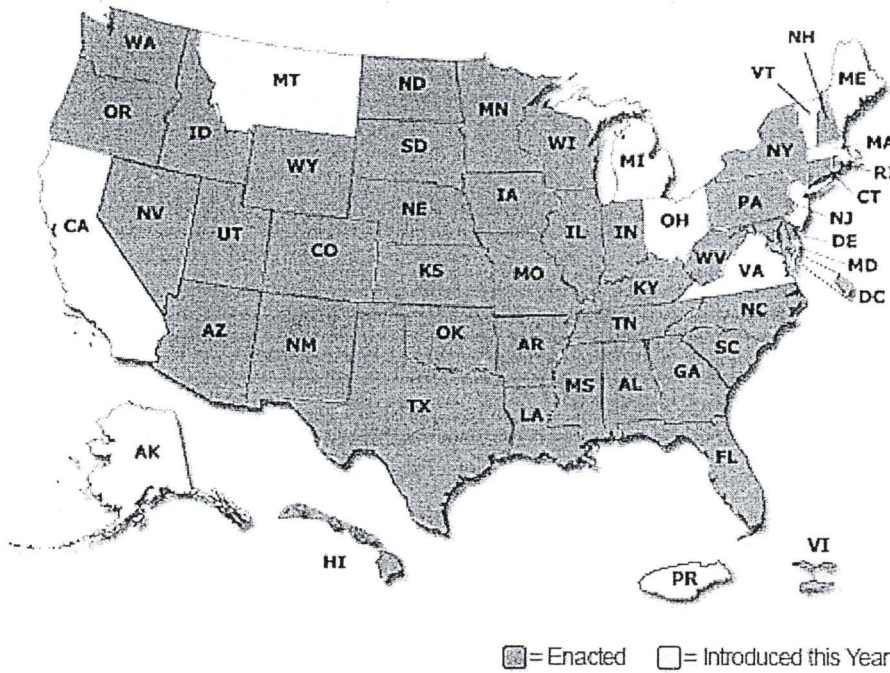
**Legislative Tracking**

2017 Introductions & Enactments

State	Bill	Sponsor	Status
North Dakota	HB 1212	Klemin	Introduced
Oregon	SB 5	Courtney	Introduced
South Carolina	SB29/HB3068	Goldfinch/Smith	Introduced

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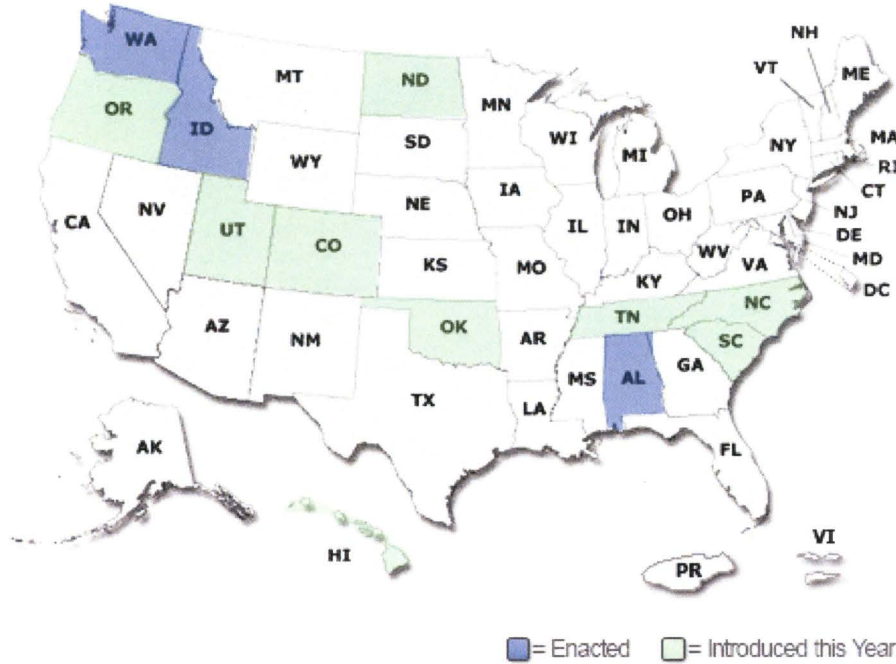
2017 Introductions & Enactments

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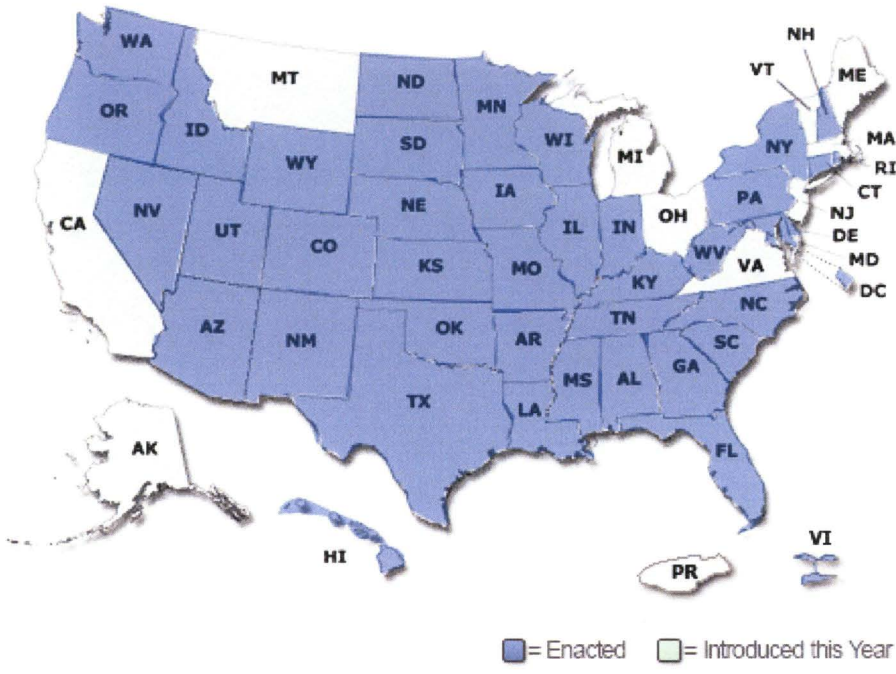
State	Bill	Sponsor	Status
Colorado	SB 23	Gardner	Introduced
Hawaii	HB 507	Nishimoto	Introduced
North Carolina	HB 230	Davis	Introduced
North Dakota	HB 1212	Klemin	Introduced
Oklahoma	HB1926/SB656	Kannady/Holt	Introduced
Oregon	SB 5	Courtney	Introduced
South Carolina	SB29/HB3068	Goldfinch/Smith	Introduced
Tennessee	SB 565	Overbey	Introduced
Utah	SB 243	Hillyard	Introduced

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No matches at this time.