

**Enrolled**  
**House Bill 3179**

Sponsored by COMMITTEE ON EDUCATION

CHAPTER .....

AN ACT

Relating to athlete agents; creating new provisions; amending ORS 702.005, 702.012, 702.017, 702.022, 702.027, 702.032, 702.037, 702.047, 702.052, 702.057, 702.063 and 702.991; and repealing ORS 702.042.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 702.005 is amended to read:

702.005. As used in ORS 702.005 to 702.063 and 702.991:

[(1) "Agent contract" means a contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of a person with one or more professional sports teams or organizations for the employment of the person:]

[(a) By one or more professional sports teams or organizations; or]

[(b) As a professional athlete.]

[(2)(a) "Athlete agent" means any person or an employee or representative of a person who:]

[(A) Directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, endorsement contract or professional sports services contract; or]

[(B) For compensation offers, promises, attempts or negotiates to obtain employment or procures employment for a student athlete with a professional sports team or organization or as a professional athlete.]

[(b) "Athlete agent" does not include:]

[(A) A person licensed as an attorney or a dealer in securities, financial planner, insurance producer, real estate broker, principal real estate broker, sales agent, tax consultant or any other professional person when the person offers or provides the type of services customarily provided by that profession, except to the extent that the person acts as an athlete agent as defined in paragraph (a) of this subsection;]

[(B) A person acting solely on behalf of a professional sports team or organization; or]

[(C) Parents who act as athlete agents for their children.]

[(3) "Educational institution" means any elementary school, secondary school, college, university or other educational institution.]

[(4) "Endorsement contract" means a contract or agreement pursuant to which a person is employed or receives remuneration for any value or utility that the person may have because of publicity, reputation, fame or following obtained because of athletic ability or performance.]

[(5) "Professional sports services contract" means any contract or agreement pursuant to which a person is employed or agrees to render services as a player for a professional sports team or organization or as a professional athlete.]

*[(6)(a) “Student athlete” means an individual admitted to or enrolled in an educational institution who participates, or has informed the institution of an intention to participate, in a sports program that includes competition with other educational institutions. “Student athlete” includes a student who has entered into one or more valid agent contracts, endorsement contracts or professional sports services contracts that allow athlete agent representation for a specific sport, as long as that student is eligible to participate in other sports for which the student has no athlete agent representation.]*

*[(b) “Student athlete” does not include:]*

*[(A) A person who has entered into a valid agent contract, endorsement contract or professional sports services contract that covers all sports in which the student is eligible to participate; or]*

*[(B) A student of a college or university whose eligibility to participate in an intercollegiate sport has terminated.]*

**(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)(a) “Athlete agent” means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. “Athlete agent” includes an individual who represents to the public that the individual is an athlete agent.**

**(b) “Athlete agent” does not include a spouse, parent, sibling, grandparent or legal 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, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into 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) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public body, as defined in ORS 174.109, or any other legal or commercial entity.**

**(8) “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.**

**(9) “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.**

**(10) “Registration” means registration as an athlete agent pursuant to ORS 702.005 to 702.063 and 702.991.**

**(11) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.**

**(12) “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.**

**SECTION 2.** Sections 3, 6, 7, 11, 14, 16, 19 and 21 of this 2005 Act are added to and made a part of ORS 702.005 to 702.063.

**SECTION 3.** (1) By acting as an athlete agent in Oregon, a nonresident individual appoints the Department of Education as the individual's agent for service of process in any civil action in Oregon related to the individual's acting as an athlete agent in Oregon.

(2) The department may issue subpoenas for any material that is relevant to the administration of ORS 702.005 to 702.063 and 702.991.

**SECTION 4.** ORS 702.012 is amended to read:

702.012. [(1) A person desiring to conduct business as an athlete agent in the State of Oregon shall obtain an athlete agent permit from the Department of Education.]

[(2) To obtain an athlete agent permit, a person must apply for the permit on a form designed and provided by the Department of Education and submit the application to the Department of Education with a permit fee of \$250. The permit fee is nonrefundable, regardless of whether the Department of Education issues or denies the permit.]

[(3) An athlete agent permit issued pursuant to this section and ORS 702.017 automatically expires one year from the date of issuance.]

[(4) Athlete agent permits may be renewed annually by submitting an application and a renewal fee of \$250 to the Department of Education.]

[(5) The Department of Education may suspend or revoke an athlete agent permit if an athlete agent is found to have violated any provision of ORS 702.005 to 702.063 and 702.991, any rules adopted pursuant thereto or any material condition of the permit. If an athlete agent permit is denied, suspended or revoked, the athlete agent may appeal the denial, suspension or revocation as a contested case under ORS chapter 183.]

[(6) All moneys collected for permit fees and renewal fees under this section are continuously appropriated to the Department of Education for the purposes of carrying out ORS 702.005 to 702.063 and 702.991.]

[(7) A person may not conduct business as an athlete agent without first having obtained an athlete agent permit pursuant to this section.]

[(8) Any nonresident person doing business in this state as an athlete agent shall, by so doing:]

[(a) Consent to the jurisdiction of the courts of this state;]

[(b) Be subject to suit in this state; and]

[(c) Be deemed to have appointed the Department of Education as the person's agent to accept service of process in any civil action related to the person doing business as an athlete agent in this state.]

(1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in Oregon without holding a certificate of registration issued under this section or section 6 of this 2005 Act.

(2) Before being issued a certificate of registration, an individual may act as an athlete agent in Oregon for all purposes except signing an agency contract, if:

(a) A student athlete or another person acting on behalf of the student athlete initiates communication with the individual; and

(b) Within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in Oregon.

(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.

(4) Except as otherwise provided in subsection (5) of this section, the Department of Education shall issue a certificate of registration to an individual who complies with ORS 702.017 (1) and (2) or whose application has been accepted under ORS 702.017 (3).

(5) The department may refuse to issue a certificate of registration if the department 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 department may consider whether the applicant has:

(a) Been convicted of a crime that, if committed in Oregon, 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 ORS 702.027;

(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.

(6) In making a determination under subsection (5) of this section, the department shall consider:

(a) How recently the conduct occurred;

(b) The nature of the conduct and the context in which it occurred; and

(c) Any other relevant conduct of the applicant.

(7) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. 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.

(8) 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 pursuant to subsection (7) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The department shall accept the application for renewal from the other state as an application for renewal in Oregon if the application to the other state:

(a) Was submitted in the other state within the preceding six months and the applicant certifies that 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 Oregon; and

(c) Was signed by the applicant under penalty of perjury.

(9) A certificate of registration or a renewal of a registration is valid for two years.

(10) The department may suspend, revoke or refuse to renew a registration for conduct that would have justified denial of registration under subsection (5) of this section.

(11) The department may deny, suspend, revoke or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing.

**SECTION 5.** ORS 702.017 is amended to read:

702.017. *[The Department of Education shall:]*

*[(1) Develop and provide an application form for an athlete agent permit that:]*

*[(a) Requires the applicant to affirm, under penalty of perjury, that the applicant:]*

*[(A) Is at least 18 years of age;]*

*[(B) Has remitted the required permit fee or renewal fee pursuant to ORS 702.012;]*

*[(C) Has not been convicted of any crime referred to in ORS 342.143 (3)(a);]*

*[(D) Has not, in any jurisdiction, had an athlete agent license or permit suspended or revoked for a violation of any law in that jurisdiction;]*

*[(E) Has not, in any jurisdiction, had a civil judgment entered against the applicant for damages caused to an institution as a result of a violation of any athlete agent law in that jurisdiction; and]*

*[(F) Has not engaged in conduct that resulted in penalties or sanctions being imposed against a college or university by the athletic association governing that college or university or by an athletic conference in which the college or university is a member; and]*

*[(b) Informs the applicant that a criminal records check is required and that the applicant must allow the Department of Education to take fingerprints for the criminal records check;]*

*[(2) Adopt rules specifying any other qualifications for the issuance of an athlete agent permit;]*

*[(3) Take fingerprints of each applicant for a criminal records check conducted pursuant to ORS 702.022;]*

*[(4) Issue athlete agent permits to applicants who meet all of the qualifications listed in this section and the rules adopted pursuant thereto;]*

*[(5) Develop and provide an application form for the renewal of an athlete agent permit;]*

*[(6) Collect permit fees and renewal fees; and]*

*[(7) Use the moneys collected from permit fees and renewal fees to defray the costs of administering the athlete agent permit program.]*

**(1) An applicant for registration shall submit an application for registration to the Department of Education in a form prescribed by the department and, if requested by the department, shall allow the department to take fingerprints for a criminal records check conducted pursuant to ORS 702.022.**

**(2) The application must be in the name of an individual and, except as otherwise provided in subsection (3) of this section, signed or otherwise authenticated by the applicant under penalty of perjury. The application must 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:**

**(A) Formal training as an athlete agent;**

**(B) Practical experience as an athlete agent; and**

**(C) Educational background relating to the applicant's activities as an athlete agent;**

**(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:**

**(A) With respect to the athlete agent's business if the business is not a corporation, the partners, members, officers, managers, associates or profit sharers of the business; and**

**(B) With respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation having an interest of five percent or more;**

**(h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in Oregon, 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 pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive or fraudulent representation;**

**(j) 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 pursuant to paragraph (g) of this subsection as an athlete agent in any state;**

**(k) Any sanction, suspension or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and**

(L) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection 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.

(3) 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 pursuant to subsection (2) of this section. The department shall accept the application and the certificate from the other state as an application for registration in Oregon if the application to the other state:

(a) Was submitted in the other state within the preceding six months 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 Oregon; and

(c) Was signed by the applicant under penalty of perjury.

**SECTION 6.** The Department of Education may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

**SECTION 7.** (1) An application for registration or renewal of registration must be accompanied by a fee in the following amount:

(a) \$250 for an initial application for registration;

(b) \$150 for an application for registration based upon a certificate of registration or licensure issued by another state;

(c) \$150 for an application for renewal of registration; or

(d) \$150 for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

(2) Any fees collected under this section by the Department of Education shall be deposited in the Department of Education Account established under ORS 326.115.

**SECTION 8.** ORS 702.027 is amended to read:

702.027. [(1) Except as otherwise provided in this section, an athlete agent shall not make or continue any contact, whether in person, in writing, electronically or in any other manner, with a student athlete, a relative of the student athlete by blood or marriage or any person who resides in the same place as the student athlete.]

[(2) An athlete agent may send a student athlete or any other person described in subsection (1) of this section written materials, provided that the athlete agent has sent an identical copy of the materials to the principal, president or other chief administrator of the educational institution to which the student athlete has been admitted or in which the student athlete is enrolled.]

[(3) If a student athlete or any other person described in subsection (1) of this section initiates contact with an athlete agent, the athlete agent may continue the contact and make new contacts with that person. No later than the first regular business day after the initial contact, the athlete agent shall notify in writing the principal, president or other chief administrator of the educational institution to which the student athlete has been admitted or in which the student athlete is enrolled, of that contact. The notification shall describe the nature of the contact.]

[(4) This section does not apply to any contact between an athlete agent and a student athlete or any other person described in subsection (1) of this section if the contact is initiated by an educational institution to which the student athlete has been admitted or in which the student athlete is enrolled.]

[(5) This section does not apply to any contact between an athlete agent and a student athlete who have already entered into a valid agent contract, endorsement contract or professional sports services contract that allows the athlete agent to represent the student in a specific sport.]

**An athlete agent may not intentionally:**

(1) Initiate contact with a student athlete unless registered under ORS 702.005 to 702.063 and 702.991;

(2) Refuse or fail to retain or permit inspection of the records required to be retained by section 16 of this 2005 Act;

(3) Fail to register when required by ORS 702.012;

(4) Provide materially false or misleading information in an application for registration or renewal of registration;

(5) Predate or postdate an agency contract; or

(6) 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.

**SECTION 9.** ORS 702.032 is amended to read:

702.032. An athlete agent may not, *[directly or indirectly, offer or provide money or anything of benefit or value to a student athlete, or any person acting for or on behalf of a student athlete,]* for the purpose of inducing *[the]* a student athlete to enter into an *[agent]* agency contract, *[endorsement contract or professional sports services contract]* **furnish anything of value to the student athlete before the student athlete enters into an agency contract.**

**SECTION 10.** ORS 702.037 is amended to read:

702.037. *[An athlete agent may not offer or provide money or anything of benefit or value, including, but not limited to, free or reduced price legal services, to any educational institution or any representative or employee of any educational institution in return for the referral of any clients or initiation of any contact described in ORS 702.027.]* **An athlete agent may not, with the intent to induce a student athlete to enter into an agency contract, furnish anything of value to any individual other than the student athlete or another registered athlete agent.**

**SECTION 11.** **An athlete agent may not, with the intent to induce a student athlete to enter into an agency contract, give any materially false or misleading information or make a materially false promise or representation.**

**SECTION 12.** ORS 702.047 is amended to read:

702.047. *[Every agent contract, endorsement contract or professional sports services contract entered into by a student athlete shall contain, in close proximity to the signature of the student athlete, a notice in at least 10-point boldfaced type stating:]*

[ \_\_\_\_\_ ]

**WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU LIKELY WILL IMMEDIATELY AND PERMANENTLY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERSCHOLASTIC OR INTERCOLLEGIATE \_\_\_\_\_ (insert sport or sports covered in this contract). YOU MUST GIVE THE PRINCIPAL, PRESIDENT OR OTHER CHIEF ADMINISTRATOR OF YOUR EDUCATIONAL INSTITUTION WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT WITHIN 72 HOURS, OR BEFORE YOU PRACTICE FOR OR PARTICIPATE IN ANY INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT, OR OTHER PARTY TO THIS CONTRACT, IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE FEDERATION OR ASSOCIATION TO WHICH YOUR EDUCATIONAL INSTITUTION BELONGS MAY CHOOSE NOT TO RESTORE YOUR ELIGIBILITY.**

[ \_\_\_\_\_ ]

(1) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(2) 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 into 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 that 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.

(3) An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldfaced type in capital letters stating:

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**WARNING TO THE 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, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, OR BEFORE YOU PARTICIPATE IN ANY INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST.

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

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(4) 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 into the contract.

(5) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student athlete at the time of execution.

**SECTION 13.** The amendments to ORS 702.047 by section 12 of this 2005 Act apply to agency contracts entered into on or after the effective date of this 2005 Act.

**SECTION 14.** (1) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(2) Within 72 hours after entering into 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 into an agency contract.

**SECTION 15.** ORS 702.052 is amended to read:

702.052. *[Within 15 days after the date a student enters into an agent contract, endorsement contract or professional sports services contract, the student may rescind the contract by giving written notice to the athlete agent of the student's desire to cancel the contract. The right of a student to rescind a contract under this section may not be waived.]*

(1) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(2) The right of a student to cancel a contract under this section may not be waived.

(3) 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.

**SECTION 16.** (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 into 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 into an agency contract.

(2) Records required by subsection (1) of this section to be retained are open to inspection by the Department of Education during normal business hours of the athlete agent.

**SECTION 17.** ORS 702.057 is amended to read:

702.057. [(1) An educational institution shall have a cause of action for damages or equitable relief against any athlete agent or student who violates the provisions of ORS 702.005 to 702.063 and 702.991.]

[(2) For the purposes of this section, an institution is damaged if a student or the institution is penalized, or is disqualified or suspended from participation in intercollegiate athletics, by an athletic association or athletic conference and, because of the penalty, disqualification or suspension, the institution:]

[(a) Loses revenue from media coverage of an athletic competition;]

[(b) Loses ticket sales for regular season or post-season athletic events;]

[(c) Loses the right to grant athletic scholarships;]

[(d) Loses the right to recruit an athlete;]

[(e) Is prohibited from participating in post-season athletic competition;]

[(f) Loses proceeds from any revenue-sharing agreement or arrangement between institutions in an athletic conference;]

[(g) Forfeits an athletic competition; or]

[(h) Otherwise suffers an adverse financial impact.]

[(3) In an action brought under this section, the court may allow a prevailing institution:]

[(a) Actual damages;]

[(b) Punitive damages;]

[(c) Court costs;]

[(d) Reasonable attorney fees; and]

[(e) Treble damages for any violation that results in any ineligibility of a student to compete, in an amount equal to three times the value of the athletic scholarship furnished by the institution to the student during the student's period of eligibility.]

[(4) An action under this section shall be commenced within three years after the date that the damages to the institution resulting from the violation are discovered or reasonably should have been discovered, whichever is sooner.]

[(5) If both the student and the athlete agent are at fault, the student and the athlete agent shall be jointly and severally liable for any damages awarded to an institution under this section for a violation that occurred during the student's period of eligibility.]

(1) An educational institution shall have a cause of action against an athlete agent or a former student athlete for damages caused by a violation of ORS 702.005 to 702.063 and 702.991. In an action under this section, the court may award to the prevailing party costs and reasonable attorney fees.

(2) For the purposes of this section, damages of an educational institution include losses and expenses 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 ORS 702.005 to 702.063 and 702.991 or was penalized, disqualified or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic con-

ference 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) ORS 702.005 to 702.063 and 702.991 do not restrict rights, remedies or defenses of any person under law or equity.

**SECTION 18.** ORS 702.063 is amended to read:

702.063. The [Department of] **State Board of Education** may adopt any rules necessary to carry out the provisions of ORS 702.005 to 702.063 and 702.991.

**SECTION 19.** (1) **The Department of Education may assess a civil penalty against an athlete agent not to exceed \$25,000 for a violation of ORS 702.005 to 702.063.**

(2) **Civil penalties under subsection (1) of this section shall be imposed in the manner provided in ORS 183.745.**

(3) **All civil penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.**

**SECTION 20.** ORS 702.991 is amended to read:

702.991. (1) [Violation of] **An athlete agent who violates ORS 702.032 is guilty of a Class C felony.**

(2) Violation of the athlete agent's [48-hour] **72-hour** notice requirement provided under [ORS 702.042 (2)] **section 14 (1) of this 2005 Act** is a Class C felony.

(3) It is a Class A misdemeanor for any person to conduct business as an athlete agent in the State of Oregon unless the person has a valid [athlete agent permit] **certificate of registration** issued pursuant to ORS 702.012 [and 702.017] **or section 6 of this 2005 Act.**

(4) It is a Class A misdemeanor for any person to represent to another person by verbal claim, advertisement, letterhead, business card or any other means that the person is an athlete agent unless the person has a valid [athlete agent permit] **certificate of registration** issued pursuant to ORS 702.012 [and 702.017] **or section 6 of this 2005 Act.**

**SECTION 21.** **In applying and construing ORS 702.005 to 702.063 and 702.991, the courts and the Department of Education shall give consideration to the need to promote uniformity of the law with respect to its subject matter among states that have enacted the Uniform Athlete Agents Act.**

**SECTION 22.** ORS 702.022 is amended to read:

702.022. (1) The Department of Education may request, and the Department of State Police shall furnish to the Department of Education, information on an individual that the Department of State Police possesses in the central bureau of criminal identification, including but not limited to manual or computerized information required for purposes of issuing **a certificate of registration to an athlete agent [permits] under ORS 702.012 and 702.017 or a temporary certificate of registration to an athlete agent under section 6 of this 2005 Act.**

(2) After furnishing the information obtained under subsection (1) of this section, the Department of State Police shall conduct a nationwide criminal records check of the individual through the Federal Bureau of Investigation, including records of fingerprints, and report the results to the Department of Education.

(3) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used to conduct the criminal records check and shall not keep any record of the fingerprints. However, if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of Education shall not send the cards to the federal bureau but shall continue to process the information through other available resources.

(4) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall return the fingerprint cards to the Department

of Education. The Department of Education shall destroy the fingerprint cards and shall not keep any facsimiles or other material from which a fingerprint can be reproduced.

(5) For purposes of receiving the information described in this section, the Department of Education is considered to be a designated agency as defined in ORS 181.010.

**SECTION 23. ORS 702.042 is repealed.**

**Passed by House May 25, 2005**

**Received by Governor:**

**Repassed by House July 5, 2005**

.....M.,....., 2005

**Approved:**

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Chief Clerk of House

.....M.,....., 2005

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Speaker of House

.....  
Governor

**Passed by Senate July 1, 2005**

**Filed in Office of Secretary of State:**

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President of Senate

.....M.,....., 2005

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Secretary of State