

Senate Bill 149

By: Senators Shafer of the 48th, Pearson of the 51st, Hamrick of the 30th, Moody of the 56th, Chance of the 16th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to provide for regulation and review of existing regulation as it relates to
3 certain professions and businesses; to provide for review of existing regulatory entities to
4 determine the need for change to their current regulations; to provide for the evaluation of
5 the regulations of existing regulatory entities; to revise the "Uniform Athlete Agents Act";
6 to provide for the regulation of athlete agents; to provide a short title; to provide for
7 definitions; to terminate the Georgia Athlete Agent Regulatory Commission; to provide for
8 general powers and duties of the Secretary of State relating to the regulation of athlete
9 agents; to require a certificate of registration to act as an athlete agent in this state; to require
10 certain records to be kept; to provide for the issuance, renewal, and suspension of certificates
11 of registration; to provide for hearings; to provide for registration with the Secretary of State;
12 to prohibit certain activities by athlete agents; to provide for notice of existence of agency
13 contracts to the athletic directors of educational institutions; to provide requirements for
14 agency contracts; to provide for cancellation of agency contracts by student athletes; to
15 provide for civil penalties and civil causes of action; to provide for related matters; to repeal
16 conflicting laws; and for other purposes.

17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

18 **SECTION 1.**

19 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
20 is amended by revising Chapter 1A, relating to occupational regulation legislation review,
21 as follows:

22 "CHAPTER 1A

23 43-1A-1.

24 This chapter shall be known and may be cited as the 'Georgia Occupational Regulation
25 Review Law.'

26 43-1A-2.

27 The General Assembly finds that the need for and the effectiveness of establishing
28 occupational licensure and certification in this state has not been systematically evaluated.
29 It is the purpose of this chapter to ensure that no programs of licensure and certification
30 shall hereafter be imposed upon any profession or business unless required for the safety
31 and well-being of the citizens of ~~the~~ this state. It is the further purpose of this chapter to
32 authorize the periodic review of existing regulatory entities to ensure that the authority of
33 such regulatory entities is applicable and necessary with relation to the current professional
34 and business conditions of this state. Any actions of the council pursuant to this chapter
35 are solely recommendations and shall be nonbinding.

36 43-1A-3.

37 As used in this chapter, the term:

38 (1) 'Applicant group' means any business or professional group or organization, any
39 individual, or any other interested party which proposes that any business or professional
40 group not presently regulated be regulated by the state.41 (2) 'Certificate' or 'certification' means a voluntary process by which a statutory
42 regulatory entity grants recognition to an individual who has met certain prerequisite
43 qualifications specified by that regulatory entity and who may assume or use 'certified'
44 in the title or designation to perform prescribed occupational tasks.

45 (3) 'Council' means the Georgia Occupational Regulation Review Council.

46 (4) 'Grandfather clause' means a provision in a regulatory statute applicable to
47 individuals engaged in the regulated business or profession prior to the effective date of
48 the regulatory statute which exempts the individuals from meeting prerequisite
49 qualifications set forth in the regulatory statute to perform prescribed occupational tasks.50 (5) 'Legislative committee of reference' means the standing legislative committee
51 designated by the Speaker of the House of Representatives or the President of the Senate
52 to consider proposed legislation introduced in their respective houses of the General
53 Assembly to regulate any business or occupation not previously regulated.54 (6) 'License,' 'licensing,' or 'licensure' means authorization to engage in a business or
55 profession which would otherwise be unlawful in the state in the absence of

56 authorization. A license is granted to those individuals who meet prerequisite
57 qualifications to perform prescribed business or professional tasks, who use a particular
58 title, or who perform those tasks and use a particular title.

59 (7) 'Regulate' or 'regulation' means the process of licensure or certification as defined in
60 this Code section.

61 (8) 'Regulatory entity' means any state agency which regulates one or more professions,
62 occupations, industries, businesses, or other endeavors in this state.

63 (9) 'State agency' means each state board, bureau, commission, department, division,
64 office, or other separate unit of state government created or established by law.

65 43-1A-4.

66 (a) There is created the Georgia Occupational Regulation Review Council.

67 (b) The council shall consist of ten members:

68 (1) The Comptroller General or his or her designee;

69 (2) The Secretary of State or his or her designee;

70 (3) The commissioner of human resources or his or her designee;

71 (4) The director of the Office of Planning and Budget or his or her designee;

72 (5) The commissioner of natural resources or his or her designee;

73 (6) The state revenue commissioner or his or her designee;

74 (7) The Commissioner of Agriculture or his or her designee;

75 (8) The administrator of the 'Fair Business Practices Act of 1975' or his or her designee;

76 (9) The chairperson of the legislative committee of reference or that person's designee
77 from that committee, but only when legislation referred by such committee is being
78 considered by the council; and

79 (10) The chairperson of that standing committee of the General Assembly appointed by
80 the presiding officer thereof pursuant to subsection (b) of Code Section 43-1A-5 or that
81 chairperson's designee from that committee, but only when legislation of which that
82 presiding officer was notified under subsection (b) of Code Section 43-1A-5 is being
83 considered by the council.

84 (c) The director of the Office of Planning and Budget or his or her designee shall serve as
85 chairperson of the council.

86 (d) Legislative members of the council appointed thereto pursuant to paragraphs (9) and
87 (10) of subsection (b) of this Code section shall receive for their attendance of meetings of
88 the council the same expense and mileage allowance authorized for legislative members
89 of interim legislative committees.

90 43-1A-5.

91 (a) It shall be the duty of the council to:

92 (1) Review ~~review~~ all bills introduced in the General Assembly to license or certify a
93 profession or business, which is not currently licensed or certified by the state, based on
94 the criteria outlined in Code Section 43-1A-6; and

95 (2) Review each existing regulatory entity that is currently regulated pursuant to this title
96 to determine the applicability and necessity of such regulatory entity's authority with
97 relation to the current professional and business conditions of this state. The council shall
98 conduct such review a minimum of once every seven years. All council meetings relating
99 to a review of an existing regulatory entity pursuant to this paragraph shall be conducted
100 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

101 (b) The chairperson of the legislative committee of reference shall provide written
102 notification to the council of any proposed legislation introduced in that house of the
103 General Assembly of which that committee is a standing committee if that legislation
104 provides for the licensure or certification of a business or profession not currently licensed
105 or certified by the state. That chairperson at the same time shall provide written notification
106 of that legislation to the presiding officer of the house of the General Assembly in which
107 that legislation was not introduced, and that presiding officer shall then appoint the
108 chairperson of a standing committee of that house to serve as a member of the council for
109 the purpose of considering that legislation, except that the chairperson so appointed may
110 instead designate another member of that standing committee to serve as a member of the
111 council for that purpose. Within a period of time not to exceed nine months from the date
112 of such notification to the council, but in no event later than the convening date of the next
113 succeeding regular session of the General Assembly, the council shall provide a formal
114 report evaluating the need to regulate the business or profession based on the factors and
115 information provided under Code Section 43-1A-7 to the chairperson of the legislative
116 committee of reference, the committee chairperson appointed to the council pursuant to
117 paragraph (10) of subsection (b) of Code Section 43-1A-4, the presiding officers of the
118 House of Representatives and the Senate, and the legislative counsel. If, subsequent to a
119 review pursuant to paragraph (2) of subsection (a) of this Code section, the council
120 concludes changes are needed to the regulations of an existing regulatory entity, or that a
121 regulatory entity's existence is no longer necessary or in the interests of the state, a formal
122 report recommending such changes shall be completed and distributed in the same manner
123 described previously herein. If the council determines a need for regulation, the report
124 shall recommend an appropriate type of regulation and an appropriate state agency to
125 oversee the regulation.

126 (c) The council shall work with the applicant group, the legislative committee of reference,
127 and other interested parties in formulating its formal report.

128 (d) The head of a regulatory entity subject to review pursuant to paragraph (2) of
129 subsection (a) of this Code section shall have the right to testify to the council to contribute
130 its perspective and recommendations regarding potential changes to how such regulatory
131 entity is regulated.

132 43-1A-6.

133 All bills introduced in the General Assembly to newly regulate a profession or business
134 ~~should~~ and all reviews of existing regulatory entities pursuant to paragraph (2) of
135 subsection (a) of Code Section 43-1A-5 shall be reviewed according to the following
136 criteria. In evaluating how or whether a profession or business shall hereafter be regulated,
137 the following factors shall be considered:

138 (1) Whether the unregulated practice of ~~an~~ the occupation may harm or endanger the
139 health, safety, and welfare of citizens of ~~the~~ this state and whether the potential for harm
140 is recognizable and not remote;

141 (2) Whether the practice of ~~an~~ the occupation requires specialized skill or training and
142 whether the public needs and will benefit by assurances of initial and continuing
143 occupational ability;

144 (3) Whether the citizens of this state are or may be effectively protected by other means;
145 ~~and~~

146 (4) Whether the overall cost effectiveness and economic impact would be positive for
147 citizens of ~~the state~~ this state; and

148 (5) Whether there are means other than state regulation to protect the interests of the
149 state.

150 43-1A-7.

151 ~~After July 1, 1986, applicant~~ Applicant groups and other interested parties shall explain in
152 writing each of the following factors to the extent requested by the council and the
153 legislative committee of reference:

154 (1) A definition of the problem and why regulation is necessary:

155 (A) The nature of the potential harm to the public if the business or profession is not
156 regulated, and the extent to which there is a threat to public health and safety; and

157 (B) The extent to which consumers need and will benefit from a method of regulation
158 identifying competent individuals engaged in the business or profession;

159 (2) The efforts made to address the problem:

- 160 (A) Voluntary efforts, if any, by members of the business or profession to establish a
161 code of ethics or help resolve disputes between the business or professional group and
162 consumers; and
- 163 (B) Recourse to and the extent of use of applicable law and whether it could be
164 strengthened to control the problem;
- 165 (3) The alternatives considered:
- 166 (A) Regulation of business or professional employers rather than employees;
167 (B) Regulation of the program or service rather than the individuals;
168 (C) Registration of all individuals;
169 (D) Certification of all individuals;
170 (E) Other alternatives;
171 (F) Why the use of the alternatives specified in this paragraph would not be adequate
172 to protect the public interest; and
173 (G) Why licensure would serve to protect the public interest;
- 174 (4) The benefit to the public if regulation is granted:
- 175 (A) The extent to which the incidence of specific problems present in the unregulated
176 business or profession can reasonably be expected to be reduced by regulation;
177 (B) Whether the public can identify qualified individuals;
178 (C) The extent to which the public can be confident that regulated individuals are
179 competent:
- 180 (i) Whether the proposed regulatory entity would be a board composed of members
181 of the profession and public members, or a state agency, or both and, if appropriate,
182 their respective responsibilities in administering the system of certification or
183 licensure, including the composition of the board; the powers and duties of the board
184 or state agency regarding examinations, investigations, and the disciplining of
185 certified or licensed individuals; the promulgation of rules and a code of ethics; and
186 how fees would be levied and collected to cover the expenses of administering and
187 operating the regulatory system;
- 188 (ii) If there is a grandfather clause, whether such individuals will be required to meet
189 the prerequisite qualifications established by the regulatory entity at a later date;
- 190 (iii) The nature of the standards proposed for certification or licensure as compared
191 with the standards of other jurisdictions;
- 192 (iv) Whether the regulatory entity would be authorized to enter into reciprocity
193 agreements with other jurisdictions; and
- 194 (v) The nature and duration of any training and whether applicants will be required
195 to pass an examination; and, if an examination is required, by whom it will be
196 developed and how the cost of development will be met; and

- 197 (D) Assurance to the public that regulated individuals have maintained their
 198 competence:
- 199 (i) Whether the certification or license will carry an expiration date; and
 200 (ii) Whether renewal will be based only upon payment of a fee or whether renewal
 201 will involve reexamination, satisfactory completion of continuing education, peer
 202 review, or other enforcement;
- 203 (5) The extent to which regulation might harm the public:
- 204 (A) The extent to which regulation might restrict entry into the business or profession
 205 and whether the proposed standards are more restrictive than necessary to ensure safe
 206 and effective performance; and
- 207 (B) Whether there are similar professions to that of the applicant group which should
 208 be included in, or portions of the applicant group which should be excluded from, the
 209 proposed legislation;
- 210 (6) A description of the group proposed for regulation, including a list of associations,
 211 organizations, and other groups representing the business or profession in this state, an
 212 estimate of the number of individuals in each group, and whether the groups represent
 213 different levels of business or professional activity;
- 214 (7) The expected cost of regulation:
- 215 (A) The impact regulation might have on the costs of service to the public;
 216 (B) The impact regulation might have on various types of insurance; and
 217 (C) The initial and long-term cost to the state and to the general public of
 218 implementing the proposed legislation; and
- 219 (8) Any additional information requested by the council or the legislative committee of
 220 reference.

221 43-1A-8.

- 222 (a) After evaluating the report of the council and any other desired information based on
 223 the criteria outlined in Code Section 43-1A-6 and considering governmental and societal
 224 costs and benefits, if the General Assembly finds that it is necessary to regulate a business
 225 or profession not previously regulated by law, the most appropriate alternative method of
 226 regulation should be implemented, consistent with the public interest and this Code section:
- 227 (1) Where the consumer may have a substantial basis for relying on the services of a
 228 profession or business, a system of certification should be implemented;
- 229 (2) Where apparent that adequate regulation cannot be achieved by means other than
 230 licensing, a system of licensing should be implemented; or
- 231 (3) Where regulation as defined in this chapter is deemed too restrictive and unnecessary
 232 to protect the public health and welfare, a less restrictive means of ensuring public

233 protection, including, but not limited to, stricter civil action or criminal penalties,
 234 inspection requirements, or a system of registration, may be considered.

235 (b) The General Assembly may, with regard to an existing regulatory entity, and after
 236 evaluating the report of the council or any desired information, including, but not limited
 237 to, the criteria outlined in Code Section 43-1A-6 and any governmental and societal costs
 238 and benefits:

239 (1) Take no action if it has determined that such existing regulatory agency is efficiently
 240 regulated and that no action is necessary in the interests of the state;

241 (2) Amend the enabling legislation of such existing regulatory entity if it has determined
 242 that making such amendments shall more efficiently regulate such regulatory entity in a
 243 manner that is in the best interests of the state; or

244 (3) Repeal the enabling legislation of such existing regulatory entity if it has determined
 245 that the continuing regulation of such regulatory entity is no longer in the interests of the
 246 state.

247 43-1A-9.

248 Nothing in this chapter shall be construed to limit the authority of the General Assembly
 249 to legislate as authorized by the Constitution."

250 **SECTION 2.**

251 Said title is further amended by revising Chapter 4A, relating to athlete agents, as follows:

252 "CHAPTER 4A

253 43-4A-1.

254 This chapter shall be known and may be cited as the 'Uniform Athlete Agents Act.'

255 43-4A-2.

256 As used in this chapter, the term:

257 (1) 'Agency contract' means an agreement in which a student athlete authorizes a person
 258 to negotiate or solicit on behalf of the student athlete a professional sports services
 259 contract or an endorsement contract.

260 (2) 'Athlete agent' means an individual who enters into an agency contract with a student
 261 athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an
 262 agency contract. This term includes an individual who represents to the public that the
 263 individual is an athlete agent. This term does not include a spouse, parent, sibling,

264 grandparent, or guardian of the student athlete or an individual acting solely on behalf of
 265 a professional sports team or professional sports organization.

266 (3) 'Athletic director' means an individual responsible for administering the overall
 267 athletic program of an educational institution or, if an educational institution has
 268 separately administered athletic programs for male students and female students, the
 269 athletic program for males ~~and~~ or the athletic program for females, as appropriate.

270 ~~(4) 'Commission' means the Georgia Athlete Agent Regulatory Commission created in~~
 271 ~~Code Section 43-4A-3.~~

272 ~~(5)~~ 'Contact' means a communication, direct or indirect, between an athlete agent and a
 273 student athlete to recruit or solicit the student athlete to enter into an agency contract.

274 ~~(6)~~(5) 'Endorsement contract' means an agreement under which a student athlete is
 275 employed or receives consideration to use on behalf of the other party any value that the
 276 student athlete may have because of publicity, reputation, following, or fame obtained
 277 because of athletic ability or performance.

278 ~~(7)~~(6) 'Intercollegiate sport' means a sport played at the collegiate level for which
 279 eligibility requirements for participation by a student athlete are established by a national
 280 association for the promotion or regulation of collegiate athletics.

281 ~~(8)~~(7) 'Person' means any individual, corporation, business trust, estate, trust, partnership,
 282 limited liability company, association, joint venture, or government; governmental
 283 subdivision, agency, or instrumentality; public corporation; or any other legal or
 284 commercial entity.

285 ~~(9)~~(8) 'Professional sports services contract' means an agreement under which an
 286 individual is employed, or agrees to render services, as a player on a professional sports
 287 team, with a professional sports organization, or as a professional athlete.

288 ~~(10)~~(9) 'Record' means information that is inscribed on a tangible medium or that is
 289 stored in an electronic or other medium and is retrievable in perceivable form.

290 ~~(11)~~(10) 'Registration' means registration as an athlete agent pursuant to this chapter.

291 (11) 'Secretary of State' means the Secretary of State of the State of Georgia and his or
 292 her designee.

293 (12) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the
 294 United States Virgin Islands, or any territory or insular possession subject to the
 295 jurisdiction of the United States.

296 (13) 'Student athlete' means an individual who engages in, is eligible to engage in, or
 297 may be eligible in the future to engage in any intercollegiate sport. If an individual is
 298 permanently ineligible to participate in a particular intercollegiate sport, the individual
 299 is not a student athlete for purposes of that sport.

300 ~~43-4A-3.~~

301 ~~(a)(1) There shall be a commission for the regulation of athlete agents in the State of~~
302 ~~Georgia to be known as the Georgia Athlete Agent Regulatory Commission.~~

303 ~~(2) Until July 1, 2003, the commission shall consist of six members with an interest in~~
304 ~~college athletics to be appointed as follows:~~

305 ~~(A) The Governor shall appoint two commission members;~~

306 ~~(B) The President of the Senate shall appoint two commission members; and~~

307 ~~(C) The Speaker of the House of Representatives shall appoint two commission~~
308 ~~members.~~

309 ~~(3) On and after July 1, 2003, the commission shall consist of five members with an~~
310 ~~interest in college athletics to be appointed as follows:~~

311 ~~(A) The Governor shall appoint two commission members;~~

312 ~~(B) The President of the Senate shall appoint one commission member; and~~

313 ~~(C) The Speaker of the House of Representatives shall appoint two commission~~
314 ~~members.~~

315 ~~(4) The terms of the members of the Georgia Athlete Agent Regulatory Commission~~
316 ~~-serving on March 1, 2003, shall continue until June 30, 2003, at which time their terms~~
317 ~~shall end. Thereafter, successors to such board members shall be appointed in accordance~~
318 ~~with paragraph (3) of this subsection.~~

319 ~~(5) All members of the commission shall be citizens of the United States and residents~~
320 ~~of Georgia. The term of each commission member shall be for a period of three years and~~
321 ~~commission members may be eligible for reappointment, subject to the provisions of this~~
322 ~~chapter. If a vacancy occurs on the commission, the officer who originally appointed such~~
323 ~~member shall appoint a successor who shall take office immediately and serve the~~
324 ~~remainder of the unexpired term. The commission members and their successors shall~~
325 ~~have and exercise all the powers and authority vested by law in said commission.~~

326 ~~(b) The effective date of the appointments pursuant to paragraph (4) of subsection (a) of~~
327 ~~this Code section shall be July 1, 2003.~~

328 ~~(c) No person who has served two successive complete terms on the commission shall be~~
329 ~~eligible for reappointment until after the lapse of one year. Appointment to fill an~~
330 ~~unexpired term is not to be considered as a complete term.~~

331 ~~(d) The Governor shall remove from the commission any member for cause as provided~~
332 ~~in Code Section 43-1-17.~~

333 ~~(e) The commission shall elect annually a chairperson and a vice chairperson.~~

334 ~~(f) A majority of the commission shall constitute a quorum for the transaction of business.~~

335 ~~(g) The commission may promulgate and from time to time amend rules and standards of~~
336 ~~conduct for athlete agents appropriate for the protection of the residents of the state.~~

337 ~~(h) Members of the commission shall be reimbursed as provided in subsection (f) of Code~~
 338 ~~Section 43-1-2.~~

339 ~~(i) The division director shall be the secretary of the commission and provide all~~
 340 ~~administrative services.~~

341 ~~43-4A-4. 43-4A-3.~~

342 By acting as an athlete agent in this state, a nonresident individual appoints the ~~division~~
 343 ~~director of the professional licensing board~~ Secretary of State as the individual's agent for
 344 service of process in any civil action in this state related to the individual's acting as an
 345 athlete agent in this state.

346 ~~43-4A-4.1. 43-4A-4.~~

347 (a) Except as otherwise provided in subsection (b) of this Code section, an individual ~~may~~
 348 shall not act as an athlete agent in this state without holding a certificate of registration
 349 under this chapter.

350 (b) Before being issued a certificate of registration, an individual may act as an athlete
 351 agent in this state for all purposes, except signing an agency contract, if:

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

354 (2) Within seven days after an initial act as an athlete agent, the individual submits an
 355 application for registration as an athlete agent in this state.

356 (c) An agency contract resulting from conduct in violation of this Code section ~~is void~~
 357 shall be void, and the athlete agent shall return any consideration received under the
 358 contract.

359 43-4A-5.

360 An applicant for registration shall submit an application for registration to the ~~commission~~
 361 Secretary of State in a form prescribed by the ~~commission~~ Secretary of State. An
 362 application filed under this Code section is a public record. The application ~~must~~ shall be
 363 in the name of an individual and state or contain the following and any other information
 364 required by the ~~commission~~ Secretary of State:

365 (1) The name of the applicant and the address of the applicant's residence and principal
 366 place of business;

367 (2) The name of the applicant's business or employer, if applicable;

368 (3) Any business or occupation engaged in by the applicant for the five years next
 369 preceding the date of submission of the application;

370 (4) A description of the applicant's:

- 371 (A) Formal training as an athlete agent;
- 372 (B) Practical experience as an athlete agent; and
- 373 (C) Educational background relating to the applicant's activities as an athlete agent;
- 374 (5) The names and addresses of three individuals not related to the applicant who are
- 375 willing to serve as references;
- 376 (6) The name, sport, and last known team for each individual for whom the applicant
- 377 acted as an athlete agent during the five years next preceding the date of submission of
- 378 the application;
- 379 (7) The names and addresses of all persons who are:
- 380 (A) With respect to the athlete agent's business if it is not a corporation, the partners,
- 381 members, officers, managers, associates, or profit sharers of the business; and
- 382 (B) With respect to a corporation employing the athlete agent, the officers, directors,
- 383 and any shareholder of the corporation having an interest of 5 percent or greater;
- 384 (8) Whether the applicant or any person named pursuant to paragraph (7) of this Code
- 385 section has been convicted of a crime that, if committed in this state, would be a crime
- 386 involving moral turpitude or a felony, and identify the crime;
- 387 (9) Whether there has been any administrative or judicial determination that the applicant
- 388 or any person named pursuant to paragraph (7) of this Code section has made a false,
- 389 misleading, deceptive, or fraudulent representation;
- 390 (10) Any instance in which the conduct of the applicant or any person named pursuant
- 391 to paragraph (7) of this Code section resulted in the imposition of a sanction, suspension,
- 392 or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic
- 393 event on a student athlete or educational institution;
- 394 (11) Any sanction, suspension, or disciplinary action taken against the applicant or any
- 395 person named pursuant to paragraph (7) of this Code section arising out of occupational
- 396 or professional conduct; and
- 397 (12) Whether there has been any denial of an application for, suspension or revocation
- 398 of, or refusal to renew the registration or licensure of the applicant or any person named
- 399 pursuant to paragraph (7) of this Code section as an athlete agent in any state.

400 ~~43-4A-6.~~

401 ~~Reserved.~~

402 ~~43-4A-7.~~ 43-4A-6.

403 (a) Except as otherwise provided in subsection (b) of this Code section, the Secretary of

404 State shall issue a certificate of registration to an individual who complies with Code

405 Section 43-4A-5.

406 (b) The ~~commission~~ Secretary of State may refuse to issue a certificate of registration if
 407 ~~the commission determines it is determined~~ that the applicant has engaged in conduct that
 408 has a significant adverse effect on the applicant's fitness to act as an athlete agent. In
 409 making the determination, the ~~commission~~ Secretary of State may consider whether the
 410 applicant has:

- 411 (1) Been convicted of a crime that, if committed in this state, would be a crime
 412 involving moral turpitude or a felony;
- 413 (2) Made a material false, misleading, deceptive, or fraudulent representation in the
 414 application or as an athlete agent;
- 415 (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary
 416 capacity;
- 417 (4) Engaged in conduct prohibited by this chapter;
- 418 (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or
 419 been refused renewal of registration or licensure as an athlete agent in any state;
- 420 (6) Engaged in conduct the consequence of which was that a sanction, suspension, or
 421 declaration of ineligibility to participate in an interscholastic or intercollegiate athletic
 422 event was imposed on a student athlete or educational institution; or
- 423 (7) Engaged in conduct that significantly adversely reflects on the applicant's credibility,
 424 honesty, or integrity.

425 ~~(b)~~(c) In making a determination under subsection ~~(a)~~(b) of this Code section, the
 426 ~~commission~~ Secretary of State shall consider:

- 427 (1) How recently the conduct occurred;
- 428 (2) The nature of the conduct and the context in which it occurred; and
- 429 (3) Any other relevant conduct of the applicant.

430 ~~(c)~~(d) The refusal to grant a registration shall not be considered to be a contested case
 431 within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'
 432 Notice and hearing within the meaning of such chapter shall not be required. Notice of
 433 refusal to grant a registration shall be sent by registered mail or statutory overnight delivery
 434 or personal service setting forth the particular reasons for the refusal. The written notice
 435 shall be sent to the applicant's address of record with the ~~commission~~ Secretary of State,
 436 and the applicant shall be allowed to appear before the ~~commission~~ Secretary of State if the
 437 applicant requests to do so in writing.

438 ~~(d)~~(e) An athlete agent may apply to renew a registration by submitting an application for
 439 renewal in a form prescribed by the ~~commission~~ Secretary of State. An application filed
 440 under this subsection is a public record.

441 ~~(e)~~(f) A certificate of registration or a renewal of a registration ~~is~~ shall be valid for a period
 442 of up to two years.

443 ~~43-4A-8.~~ 43-4A-7.

444 (a) The ~~commission~~ Secretary of State may suspend, revoke, or refuse to renew a
445 registration or may discipline a person registered by the ~~commission~~ Secretary of State for
446 conduct that would have justified denial of registration under Code Section ~~43-4A-7~~
447 43-4A-6.

448 (b) The ~~commission~~ Secretary of State may discipline, suspend, revoke, or refuse to renew
449 a certificate of registration only after proper notice and an opportunity for a hearing.

450 (c) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
451 shall be applicable to the ~~commission~~ Secretary of State and the provisions of this chapter.

452 ~~43-4A-9.~~ 43-4A-8.

453 An application for registration or renewal of registration ~~must~~ shall be accompanied by
454 such fee as shall be prescribed by the ~~commission~~ Secretary of State and a renewal bond,
455 if applicable. The fee shall be the same for all applicants regardless of previous or current
456 registrations or licenses in other states or jurisdictions as an athlete agent.

457 ~~43-4A-10.~~ 43-4A-9.

458 The ~~commission~~ Secretary of State may issue a temporary certificate of registration while
459 an application for registration or renewal of registration is pending, upon receipt by the
460 ~~commission~~ Secretary of State of a completed application for registration, surety bond, and
461 fee and after approval by the ~~chairperson of the commission~~ Secretary of State. The
462 ~~division director~~ Secretary of State may in his or her discretion issue a temporary
463 registration to the applicant, which registration shall have the same force and effect as a
464 permanent registration ~~until the next regular meeting of the commission when~~ for such
465 period of time prescribed by the Secretary of State, after which the temporary registration
466 shall become void. A temporary registration may be voided by the Secretary of State at any
467 time.

468 ~~43-4A-11.~~ 43-4A-10.

469 (a) An athlete agent shall retain the following records for a period of five years:

470 (1) The name and address of each individual represented by the athlete agent;

471 (2) Any agency contract entered into by the athlete agent; and

472 (3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a
473 student athlete to enter into an agency contract.

474 (b) Records required by subsection (a) of this Code section to be retained ~~are~~ shall be open
475 to inspection by the ~~commission~~ Secretary of State during normal business hours.

476 ~~43-4A-12.~~ 43-4A-11.

477 An athlete agent who violates Code Section ~~43-4A-16~~ 43-4A-14 shall be guilty of a felony
478 and, upon conviction, shall be punished by a fine of not less than \$5,000.00 nor more than
479 \$100,000.00, by imprisonment of one to five years, or both such fine and imprisonment.

480 ~~43-4A-13.~~ 43-4A-12.

481 (a) An athlete agent shall deposit or have deposited with the ~~commission~~ Secretary of
482 State, prior to the issuance of a registration or renewal of a registration, a surety bond in
483 the penal sum of not less than \$10,000.00, as established by the ~~commission~~ Secretary of
484 State. Such surety bond shall be executed in the favor of the state with a surety company
485 authorized to do business in this state and conditioned to pay damages in the amount of
486 such bond to any athletic department aggrieved by any act of the principal named in such
487 bond, which act is in violation of Code Section ~~43-4A-14~~ 43-4A-13 or would be grounds
488 for revocation of a license under this chapter. If more than one athletic department suffers
489 damages by the actions of an athlete agent, each athletic department shall receive a pro rata
490 share of the amount of the bond based on the entitlement of one share of such amount of
491 the bond for each student athlete who loses his or her eligibility to participate in
492 intercollegiate sports contests as a member of a sports team at an institution of higher
493 education as a result of actions of the athlete agent.

494 (b) If any registrant fails to maintain such bond so as to comply with the provisions of this
495 Code section, the registration issued to the athlete agent shall be suspended until such time
496 as a new bond is obtained. An athlete agent whose registration is suspended pursuant to this
497 Code section shall not carry on any business as an athlete agent during the period of
498 suspension.

499 ~~43-4A-14.~~ 43-4A-13.

500 (a) An athlete agent shall not, with the intent to induce a student athlete to enter into an
501 agency contract:

502 (1) Give any materially false or misleading information or make a materially false
503 promise or representation;

504 (2) Furnish anything of value to a student athlete before the student athlete enters into
505 the agency contract; or

506 (3) Furnish anything of value to an individual other than the student athlete or another
507 registered athlete agent.

508 (b) An athlete agent ~~may~~ shall not intentionally:

509 (1) Initiate contact with a student athlete unless registered under this chapter;

- 510 (2) Refuse or fail to retain or permit inspection of the records required to be retained by
 511 this chapter;
- 512 (3) Fail to register when required by this chapter;
- 513 (4) Provide materially false or misleading information in an application for registration
 514 or renewal of registration;
- 515 (5) Predate or postdate an agency contract; or
- 516 (6) Fail to notify a student athlete before the student athlete signs or otherwise
 517 authenticates an agency contract for a particular sport that such signing or authentication
 518 may make the student athlete ineligible to participate as a student athlete in that sport.

519 ~~43-4A-16.~~ 43-4A-14.

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

525 (b) Within 72 hours after entering into an agency contract or before the next scheduled
 526 athletic event in which the student athlete may participate, whichever occurs first, the
 527 student athlete shall inform the athletic director of the educational institution at which the
 528 student athlete is enrolled that he or she has entered into an agency contract.

529 ~~43-4A-16.1.~~ 43-4A-15.

530 (a) An agency contract ~~must~~ shall be in a record that is signed or otherwise authenticated
 531 by the parties.

532 (b) An agency contract ~~must~~ shall state or contain:

533 (1) The amount and method of calculating the consideration to be paid by the student
 534 athlete for services to be provided by the athlete agent under the contract and any other
 535 consideration the athlete agent has received or will receive from any other source for
 536 entering into the contract or for providing the services;

537 (2) The name of any person not listed in the application for registration or renewal of
 538 registration who will be compensated because the student athlete signed the agency
 539 contract;

540 (3) A description of any expenses that the student athlete agrees to reimburse;

541 (4) A description of the services to be provided to the student athlete;

542 (5) The duration of the contract; and

543 (6) The date of execution.

544 (c) An agency contract ~~must~~ shall contain, in close proximity to the signature of the
545 student athlete, a conspicuous notice in boldface type in capital letters stating:

546 WARNING TO STUDENT ATHLETE IF YOU SIGN THIS CONTRACT:

547 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
548 ATHLETE IN YOUR SPORT;

549 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
550 ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT
551 MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

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

555 (d) An agency contract that does not conform to this Code section is shall be voidable by
556 the student athlete. If a student athlete voids an agency contract, the student athlete ~~is not~~
557 shall not be required to pay any consideration under the contract or to return any
558 consideration received from the athlete agent to induce the student athlete to enter into the
559 contract.

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

562 ~~43-4A-17.~~ 43-4A-16.

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

565 (b) A student athlete ~~may~~ shall not waive the right to cancel an agency contract.

566 (c) If a student athlete cancels an agency contract, the student athlete ~~is not~~ shall not be
567 required to pay any consideration under the contract or to return any consideration received
568 from the athlete agent to induce the student athlete to enter into the contract.

569

570 ~~43-4A-15.~~ 43-4A-17.

571 The ~~commission~~ Secretary of State may assess a civil penalty against an athlete agent not
572 to exceed \$25,000.00 for a violation of this chapter.

573

574 ~~43-4A-20.~~ 43-4A-18.

575 (a) An educational institution has a right of action against an athlete agent or former
576 student athlete for damages caused by a violation of this chapter. In an action under this
577 Code section, the court may award to the prevailing party costs and reasonable attorney's
578 fees.

579 (b) Damages to an educational institution under subsection (a) of this Code section include
 580 losses and expenses incurred because, as a result of the conduct of an athlete agent or
 581 former student athlete, the educational institution was injured by a violation of this chapter
 582 or was penalized, disqualified, or suspended from participation in athletics by a national
 583 association for the promotion and regulation of athletics, by an athletic conference, or by
 584 reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed
 585 by such an organization.

586 (c) A right of action under this Code section ~~does~~ shall not accrue until the educational
 587 institution discovers or by the exercise of reasonable diligence would have discovered the
 588 violation by the athlete agent or former student athlete.

589 (d) Any liability of the athlete agent or the former student athlete under this Code section
 590 ~~is~~ shall be several and not joint.

591 (e) This chapter ~~does~~ shall not restrict rights, remedies, or defenses of any person under
 592 law or equity.

593 ~~43-4A-18:~~ 43-4A-19.

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

596 ~~43-4A-19:~~ 43-4A-20.

597 The provisions of this chapter governing the legal effect, validity, or enforceability of
 598 electronic records or signatures and of contracts formed or performed with the use of such
 599 records or signatures conform to the requirements of Section 102 of the Electronic
 600 Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464
 601 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National
 602 Commerce Act."

603 **SECTION 3.**

604 All laws and parts of laws in conflict with this Act are repealed.