

ASSEMBLY BILL 403 (LRB -1010)

An Act to create 93.135 (1) (t), 440.08 (2) (a) 14d. and subchapter XII of chapter 440 [precedes 440.99] of the statutes; relating to: regulating athlete agents, granting rule-making authority, making an appropriation, and providing penalties. (FE)

2003

09-16.	A.	Introduced by Representatives Wieckert, Vukmir, Gronemus, Colon, Miller, M. Lehman, Cullen, J. Lehman, Taylor, Olsen, Hines, Kreibich, Musser, Pettis, Ott, Owens, Townsend, Jeskewitz, Albers, Hahn, Pocan, Vrakas, Shilling, Van Roy and Gielow ; cosponsored by Senators Kanavas, Plale, Erpenbach, Risser and Roessler .	
06-12.	A.	Read first time and referred to committee on Colleges and Universities	247
09-16.	A.	Fiscal estimate received.	
10-07.	A.	Public hearing held.	
11-25.	A.	Assembly amendment 1 offered by Representative Wieckert (LRB a1518)	555
12-16.	A.	Executive action taken.	

2004

01-05.	A.	Report Assembly Amendment 1 adoption recommended by committee on Colleges and Universities, Ayes 12, Noes 0	589
01-05.	A.	Report passage as amended recommended by committee on Colleges and Universities, Ayes 12, Noes 0	589
01-05.	A.	Referred to joint committee on Finance	589
02-17.	A.	Executive action taken.	
02-17.	A.	Assembly substitute amendment 1 offered by committee on Finance (LRB s0362)	704
02-23.	A.	Report Assembly Substitute Amendment 1 adoption recommended by joint committee on Finance, Ayes 15, Noes 0	715
02-23.	A.	Report passage as amended recommended by joint committee on Finance, Ayes 15, Noes 0	715
02-23.	A.	Referred to committee on Rules	715
02-25.	A.	Placed on calendar 3-2-2004 by committee on Rules.	
03-02.	A.	Read a second time	765
03-02.	A.	Assembly substitute amendment 1 adopted	765
03-02.	A.	Ordered to a third reading	765
03-02.	A.	Rules suspended	765
03-02.	A.	Read a third time and passed , Ayes 96, Noes 0	765
03-02.	A.	Ordered immediately messaged	765
03-03.	S.	Received from Assembly	660
03-03.	S.	Read first time and referred to committee on Senate Organization	660
03-03.	S.	Available for scheduling.	
03-03.	S.	Placed on calendar 3-4-2004 by committee on Senate Organization.	
03-04.	S.	Read a second time	671
03-04.	S.	Ordered to a third reading	671
03-04.	S.	Rules suspended	671
03-04.	S.	Read a third time and concurred in , Ayes 33, Noes 0	671
03-04.	S.	Ordered immediately messaged	674
03-04.	A.	Received from Senate concurred in.	

2003
ENROLLED BILL

03en AB-403

ADOPTED DOCUMENTS:

Orig Engr

A SubAmdt 1

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 403**

February 17, 2004 – Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to amend* 440.05 (intro.); and *to create* 440.08 (2) (a) 14d. and
2 subchapter XII of chapter 440 [precedes 440.99] of the statutes; **relating to:**
3 regulating athlete agents, providing an exemption from emergency rule
4 procedures, granting rule-making authority, making an appropriation, and
5 providing penalties.

Analysis by the Legislative Reference Bureau

This substitute amendment regulates athlete agents who represent student athletes by enacting the Uniform Athlete Agents Act, which was approved by the National Conference of Commissioners on Uniform State Laws in 2000. With certain exceptions, the substitute amendment defines an “athlete agent” as someone who does any of the following: 1) enters into an agency contract with a student athlete; 2) recruits or solicits a student athlete to enter into an agency contract; or 3) represents to the public that he or she is an athlete agent. An “agency contract” is defined as any of the following: 1) an agreement under which an athlete agent negotiates on behalf of a student athlete; 2) a professional-sports-services contract; or 3) an endorsement contract. A “student athlete” is defined as an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. However, if an individual is permanently ineligible to

participate in a particular intercollegiate sport, the individual is not considered to be a student athlete for purposes of that sport.

The substitute amendment prohibits an individual from acting as an athlete agent unless he or she is registered with the Department of Regulation and Licensing (DRL). The following are excluded from the definition of "athlete agent" and do not have to register: 1) a spouse, parent, sibling, grandparent, or guardian of a student athlete; 2) an individual acting solely on behalf of a professional sports team or professional sports organization; or 3) an individual who provides information to a student athlete, but who does not recruit or solicit the student athlete to enter into an agency contract. Also, except for signing an agency contract, an individual may act as an athlete agent before being registered if a student athlete, or someone acting on behalf of the student athlete, initiates communication with the individual and he or she applies for registration within seven days after an initial act as an athlete agent. The substitute amendment provides that, if an unregistered athlete agent who is required to be registered enters into an agency contract with a student athlete, the contract is void and the athlete agent must return any consideration received under the contract.

An applicant for registration must describe the applicant's training, experience, and education and also identify his or her business associates. For a business that is not a corporation, the applicant must identify the partners, members, officers, managers, associates, or profit sharers of the business. For a corporation, the officers, directors, and shareholders with an interest of 5 percent or more must be identified. In addition, an applicant must describe all of the following: 1) any felony for which the applicant or a business associate has been convicted; 2) any administrative or judicial determination that the applicant or a business associate has made a false, misleading, deceptive, or fraudulent representation; 3) any instance in which the conduct of the applicant or a business associate has resulted in a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event; and 4) any sanction, suspension, or disciplinary action taken against the applicant or a business associate arising out of occupational or professional misconduct.

An applicant must submit an application on a form prescribed by DRL. However if the applicant is registered or licensed as an athlete agent in another state, the applicant may, under certain circumstances, submit to DRL a copy of the application to the other state.

DRL must register an applicant as an athlete agent, unless DRL determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness as an athlete agent. In making this determination, DRL may consider whether the applicant engaged in certain conduct, including the following: 1) conduct that would disqualify the applicant from serving in a fiduciary capacity; 2) conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity; or 3) conduct that violates prohibitions specified in the substitute amendment that are described below. An individual who is registered by DRL must apply to renew the registration every two years and pay a renewal fee. An applicant for renewal may, under certain circumstances, submit an application for renewal

that was submitted to another state. DRL may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of the initial registration.

The substitute amendment imposes certain requirements on agency contracts between athlete agents and student athletes. An agency contract must contain specified provisions, including a notice to the student athlete that, by signing the contract, he or she may lose his or her eligibility to compete as a student athlete. The substitute amendment gives a student athlete the nonwaivable right to cancel an agency contract within 14 days after the contract is signed. In addition, a student athlete may void an agency contract that does not comply with the substitute amendment's requirements. Also, both the athlete agent and the student athlete must notify the student athlete's athletic director about an agency contract within 72 hours after execution of the contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first.

The substitute amendment prohibits an athlete agent from engaging in the following conduct with the intent to induce a student athlete to enter into an agency contract: 1) making materially false promises or representations; or 2) furnishing anything of value to the student athlete or any other individual, including another athlete agent. The substitute amendment also prohibits an athlete agent from intentionally engaging in certain conduct, including the following: 1) initiating contact with a student athlete unless the athlete agent is registered under the substitute amendment; or 2) failing to notify a student athlete that signing an agency contract may make him or her ineligible to participate in a sport as a student athlete. In addition, the substitute amendment imposes record-keeping requirements on athlete agents.

An athlete agent who violates the substitute amendment's prohibitions may be fined \$10,000 or imprisoned for not more than nine months or both. The substitute amendment also allows DRL to directly assess a forfeiture of not more than \$25,000 for a violation of the substitute amendment. In addition, an educational institution may bring an action against an athlete agent or former student athlete for damages caused by a violation of the substitute amendment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 440.05 (intro.) of the statutes is amended to read:

2 **440.05 Standard fees.** (intro.) The following standard fees apply to all initial
3 credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 440.9935,
4 444.03, 444.05, 444.11, 447.04 (2) (c) 2., 449.17, 449.18 and 459.46:

5 **SECTION 2.** 440.08 (2) (a) 14d. of the statutes is created to read:

1 440.08 (2) (a) 14d. Athlete agent: July 1 of each even-numbered year; the
2 amount specified in rules promulgated under s. 440.9935.

3 **SECTION 3.** Subchapter XII of chapter 440 [precedes 440.99] of the statutes is
4 created to read:

5 **CHAPTER 440**

6 SUBCHAPTER XII

7 UNIFORM ATHLETE AGENTS ACT

8 **440.99 Definitions.** In this subchapter:

9 (1) “Agency contract” means an agreement in which a student athlete
10 authorizes a person to negotiate or solicit on behalf of the student athlete a
11 professional-sports-services contract or an endorsement contract.

12 (2) “Athlete agent” means an individual who enters into an agency contract
13 with a student athlete or recruits or solicits a student athlete to enter into an agency
14 contract. “Athlete agent” includes an individual who represents to the public that
15 the individual is an athlete agent. “Athlete agent” does not include a spouse, parent,
16 sibling, grandparent, or guardian of the student athlete or an individual acting solely
17 on behalf of a professional sports team or professional sports organization. “Athlete
18 agent” also does not include an individual who provides information to a student
19 athlete, but who does not recruit or solicit the student athlete to enter into an agency
20 contract.

21 (3) “Athletic director” means an individual responsible for administering the
22 overall athletic program of an educational institution or, if an educational institution
23 has separately administered athletic programs for male students and female
24 students, the athletic program for males or the athletic program for females, as
25 appropriate.

1 (4) “Contact” means a communication, direct or indirect, between an athlete
2 agent and a student athlete, to recruit or solicit the student athlete to enter into an
3 agency contract.

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

8 (6) “Intercollegiate sport” means a sport played at the collegiate level for which
9 eligibility requirements for participation by a student athlete are established by a
10 national association for the promotion or regulation of collegiate athletics.

11 (7) “Professional–sports–services contract” means an agreement under which
12 an individual is employed, or agrees to render services, as a player on a professional
13 sports team, with a professional sports organization, or as a professional athlete.

14 (8) “Record” means information that is inscribed on a tangible medium or that
15 is stored in an electronic or other medium and is retrievable in perceivable form.

16 (9) “Registration” means registration as an athlete agent under this
17 subchapter.

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

21 (11) “Student athlete” means an individual who engages in, is eligible to engage
22 in, or may be eligible in the future to engage in, any intercollegiate sport. If an
23 individual is permanently ineligible to participate in a particular intercollegiate
24 sport, the individual is not a student athlete for purposes of that sport.

1 **440.9905 Service of process.** By acting as an athlete agent in this state, a
2 nonresident individual appoints the secretary of state as the individual's agent for
3 service of process in any civil action in this state related to the individual's acting as
4 an athlete agent in this state.

5 **440.991 Athlete agents: registration required; void contracts.** (1)
6 Except as otherwise provided in sub. (2), an individual may not act as an athlete
7 agent in this state without holding a certificate of registration under s. 440.992 or
8 440.993.

9 (2) Before being issued a certificate of registration, an individual may act as
10 an athlete agent in this state for all purposes except signing an agency contract, if
11 all of the following are satisfied:

12 (a) A student athlete or another person acting on behalf of the student athlete
13 initiates communication with the individual.

14 (b) Within 7 days after an initial act as an athlete agent, such as an effort to
15 recruit or solicit a student athlete to enter into an agency contract, the individual
16 submits an application for registration as an athlete agent in this state.

17 (3) An agency contract resulting from conduct in violation of this section is void
18 and the athlete agent shall return any consideration received under the contract.

19 **440.9915 Registration as athlete agent; form; requirements.** (1) An
20 applicant for registration as an athlete agent shall submit an application for
21 registration to the department in a form prescribed by the department. The
22 application must be in the name of an individual and, except as otherwise provided
23 in sub. (2), signed or otherwise authenticated by the applicant under penalty of
24 perjury and state or contain all of the following:

1 (a) The name of the applicant and the address of the applicant's principal place
2 of business.

3 (b) The name of the applicant's business or employer, if applicable.

4 (c) Any business or occupation engaged in by the applicant for the 5 years next
5 preceding the date of submission of the application.

6 (d) A description of all of the following:

7 1. The applicant's formal training as an athlete agent.

8 2. The applicant's practical experience as an athlete agent.

9 3. The applicant's educational background relating to his or her activities as
10 an athlete agent.

11 (e) The name, sport, and last-known team for each individual for whom the
12 applicant acted as an athlete agent during the 5 years next preceding the date of
13 submission of the application.

14 (f) If the athlete agent's business is not a corporation, the names and addresses
15 of the partners, members, officers, managers, associates, or profit sharers of the
16 business.

17 (g) If the athlete agent is employed by a corporation, the names and addresses
18 of the officers and directors of the corporation and any shareholder of the corporation
19 having an interest of 5 percent or more.

20 (h) Whether the applicant or any person named pursuant to par. (f) or (g) has
21 been convicted of a crime that, if committed in this state, would be a felony, and a
22 description of the crime.

23 (i) Whether there has been any administrative or judicial determination that
24 the applicant or any person named pursuant to par. (f) or (g) has made a false,
25 misleading, deceptive, or fraudulent representation.

1 (j) Any instance in which the conduct of the applicant or any person named
2 pursuant to par. (f) or (g) resulted in the imposition of a sanction, suspension, or
3 declaration of ineligibility to participate in an interscholastic or intercollegiate
4 athletic event on a student athlete or educational institution.

5 (k) Any sanction, suspension, or disciplinary action taken against the applicant
6 or any person named pursuant to par. (f) or (g) arising out of occupational or
7 professional conduct.

8 (L) Whether there has been any denial of an application for, suspension or
9 revocation of, or refusal to renew, the registration or licensure of the applicant or any
10 person named pursuant to par. (f) or (g) as an athlete agent in any state.

11 (2) An individual who has submitted an application for, and holds a certificate
12 of, registration or licensure as an athlete agent in another state may submit a copy
13 of the application and certificate in lieu of submitting an application in the form
14 prescribed pursuant to sub. (1). The department shall accept the application and the
15 certificate from the other state as an application for registration in this state if all
16 of the following are satisfied:

17 (a) The application to the other state was submitted in the other state within
18 the 6 months next preceding the submission of the application in this state and the
19 applicant certifies that the information contained in the application to the other
20 state is current.

21 (b) The application to the other state contains information substantially
22 similar to or more comprehensive than that required in an application submitted in
23 this state.

24 (c) The application to the other state was signed by the applicant under penalty
25 of perjury.

1 **440.992 Certificate of registration; issuance or denial; renewal. (1)**

2 Except as otherwise provided in sub. (2), the department shall issue a certificate of
3 registration to an individual who complies with s. 440.9915 (1) or whose application
4 has been accepted under s. 440.9915 (2), if the individual has paid the fees specified
5 in s. 440.9935.

6 **(2)** The department may refuse to issue a certificate of registration if the
7 department determines that the applicant has engaged in conduct that has a
8 significant adverse effect on the applicant's fitness to act as an athlete agent. In
9 making the determination, the department may consider whether the applicant has
10 done any of the following:

11 (a) Subject to ss. 111.321, 111.322, and 111.335, been convicted of a crime that,
12 if committed in this state, would be a felony.

13 (b) Made a materially false, misleading, deceptive, or fraudulent
14 representation in the application or as an athlete agent.

15 (c) Engaged in unprofessional conduct or conduct that would disqualify the
16 applicant from serving in a fiduciary capacity.

17 (d) Engaged in conduct prohibited by s. 440.996.

18 (e) Had a registration or licensure as an athlete agent suspended, revoked, or
19 denied or been refused renewal of registration or licensure as an athlete agent in any
20 state.

21 (f) Engaged in conduct the consequence of which was that a sanction,
22 suspension, or declaration of ineligibility to participate in an interscholastic or
23 intercollegiate athletic event was imposed on a student athlete or educational
24 institution.

1 (g) Engaged in conduct that significantly adversely reflects on the applicant's
2 credibility, honesty, or integrity.

3 (3) In making a determination under sub. (2), the department shall consider
4 each of the following:

5 (a) How recently the conduct occurred.

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

7 (c) Any other relevant conduct of the applicant.

8 (4) An athlete agent may apply to renew a registration by submitting an
9 application for renewal in a form prescribed by the department. The application for
10 renewal must be signed by the applicant under penalty of perjury and must contain
11 current information on all matters required in an original registration. Applications
12 submitted under this subsection shall be open to inspection at all reasonable hours
13 authorized by representatives of the department.

14 (5) An individual who has submitted an application for renewal of registration
15 or licensure in another state, in lieu of submitting an application for renewal in the
16 form prescribed under sub. (4), may file a copy of the application for renewal and a
17 valid certificate of registration or licensure from the other state. The department
18 shall accept the application for renewal from the other state as an application for
19 renewal in this state if the application to the other state satisfies all of the following:

20 (a) The application was submitted in the other state within the 6 months next
21 preceding the filing in this state and the applicant certifies that the information
22 contained in the application for renewal is current.

23 (b) The application contains information substantially similar to or more
24 comprehensive than that required in an application for renewal submitted in this
25 state.

1 (c) The application was signed by the applicant under penalty of perjury.

2 (6) A certificate of registration or a renewal of a registration is valid for 2 years.

3 **440.9925 Suspension, revocation, or refusal to renew registration. (1)**

4 The department may suspend, revoke, or refuse to renew a registration for conduct
5 that would have justified denial of registration under s. 440.992 (2).

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

8 **440.993 Temporary registration.** The department may issue a temporary
9 certificate of registration while an application for registration or renewal of
10 registration is pending. The department shall promulgate rules establishing
11 requirements and procedures for applying for and issuing temporary certificates of
12 registration.

13 **440.9935 Registration and renewal fees.** An application for registration
14 must be accompanied by a processing fee in an amount established in rules
15 promulgated by the department. If the department determines to issue a certificate
16 of registration to an applicant, the department shall require the applicant to pay a
17 fee for issuing the certificate in an amount established in rules promulgated by the
18 department. The renewal dates for certificates of registration issued under this
19 subchapter are specified in s. 440.08 (2) (a). Renewal applications shall be submitted
20 to the department on a form provided by the department and shall include a fee in
21 an amount established in rules promulgated by the department, except that for the
22 first renewal after a certificate of registration is issued, the department shall prorate
23 the fee based on the length of time between issuance and renewal. The
24 amounts established in the rules promulgated under this section shall be based on

1 the department's administrative and enforcement costs attributable to processing
2 applications and regulating athlete agents.

3 **440.994 Required form of contract.** (1) An agency contract must be in a
4 record, signed or otherwise authenticated by the parties.

5 (2) An agency contract must state or contain all of the following:

6 (a) The amount and method of calculating the consideration to be paid by the
7 student athlete for services to be provided by the athlete agent under the contract
8 and any other consideration that the athlete agent has received or will receive from
9 any other source for entering into the contract or for providing the services.

10 (b) The name of any person not listed in the application for registration or
11 renewal of registration who will be compensated because the student athlete signed
12 the agency contract.

13 (c) A description of any expenses that the student athlete agrees to reimburse.

14 (d) A description of the services to be provided to the student athlete.

15 (e) The duration of the contract.

16 (f) The date of execution.

17 (3) An agency contract must contain, in close proximity to the signature of the
18 student athlete, a conspicuous notice in boldface type and capital letters stating the
19 following:

20 **WARNING TO STUDENT ATHLETE**

21 **IF YOU SIGN THIS CONTRACT:**

22 1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT**
23 **ATHLETE IN YOUR SPORT;**

24 2) **IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**
25 **ENTERING INTO THIS CONTRACTOR OR BEFORE THE NEXT SCHEDULED**

1 ATHLETIC EVENT IN WHICH YOU MAY PARTICIPATE, WHICHEVER OCCURS
2 FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR
3 ATHLETIC DIRECTOR; AND

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

7 (4) An agency contract that does not conform to this section is voidable by the
8 student athlete. If a student athlete voids an agency contract, the student athlete
9 is not required to pay any consideration under the contract or to return any
10 consideration received from the athlete agent to induce the student athlete to enter
11 into the contract.

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

14 **440.9945 Notice to educational institution.** (1) Within 72 hours after
15 entering into an agency contract or before the next scheduled athletic event in which
16 the student athlete may participate, whichever occurs first, the athlete agent shall
17 give notice in a record of the existence of the contract to the athletic director of the
18 educational institution at which the student athlete is enrolled or the athlete agent
19 has reasonable grounds to believe the student athlete intends to enroll.

20 (2) Within 72 hours after entering into an agency contract or before the next
21 athletic event in which the student athlete may participate, whichever occurs first,
22 the student athlete shall inform the athletic director of the educational institution
23 at which the student athlete is enrolled that he or she has entered into an agency
24 contract.

1 **440.995 Student athlete's right to cancel.** (1) A student athlete may cancel
2 an agency contract by giving notice of the cancellation to the athlete agent in a record
3 within 14 days after the contract is signed.

4 (2) A student athlete may not waive the right to cancel an agency contract.

5 (3) If a student athlete cancels an agency contract, the student athlete is not
6 required to pay any consideration under the contract or to return any consideration
7 received from the athlete agent to induce the student athlete to enter into the
8 contract.

9 **440.9955 Required records.** (1) An athlete agent shall retain all of the
10 following records for a period of 5 years:

11 (a) The name and address of each individual represented by the athlete agent.

12 (b) Any agency contract entered into by the athlete agent.

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

15 (2) Records required by sub. (1) to be retained are open to inspection by the
16 department during normal business hours. Upon demand, an athlete agent shall
17 provide a copy of such a record to the department.

18 **440.996 Prohibited conduct.** (1) An athlete agent, with the intent to induce
19 a student athlete to enter into an agency contract, may not do any of the following:

20 (a) Give any materially false or misleading information or make a materially
21 false promise or representation.

22 (b) Furnish anything of value to a student athlete before the student athlete
23 enters into the agency contract.

24 (c) Furnish anything of value to any individual other than the student athlete
25 or another registered athlete agent.

1 (2) An athlete agent may not intentionally do any of the following:

2 (a) Initiate contact with a student athlete unless registered under this
3 subchapter.

4 (b) Refuse or fail to retain or permit inspection of the records required to be
5 retained by s. 440.9955.

6 (c) Fail to register when required by s. 440.991.

7 (d) Provide materially false or misleading information in an application for
8 registration or renewal of registration.

9 (f) Predate or postdate an agency contract.

10 (g) Fail to notify a student athlete before the student athlete signs or otherwise
11 authenticates an agency contract for a particular sport that the signing or
12 authentication may make the student athlete ineligible to participate as a student
13 athlete in that sport.

14 **440.9965 Criminal penalties.** An athlete agent who violates s. 440.996 may
15 be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

16 **440.997 Civil remedies.** (1) An educational institution may bring an action
17 against an athlete agent for damages caused by a violation of this subchapter. In an
18 action under this subsection, the court may award to the prevailing party costs and,
19 notwithstanding s. 814.04, reasonable attorney fees.

20 (2) Damages of an educational institution under sub. (1) include losses and
21 expenses incurred because, as a result of the conduct of an athlete agent, the
22 educational institution was injured by a violation of this subchapter or was
23 penalized, disqualified, or suspended from participation in athletics by a national
24 association for the promotion and regulation of athletics, by an athletic conference,

1 or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely
2 to be imposed by such an organization.

3 (3) A right of action under this section does not accrue until the educational
4 institution discovers or by the exercise of reasonable diligence would have discovered
5 the violation by the athlete agent.

6 (5) This subchapter does not restrict rights, remedies, or defenses of any person
7 under law or equity.

8 **440.9975 Administrative forfeiture.** The department may directly assess
9 a forfeiture against an athlete agent of not more than \$25,000 for a violation of this
10 subchapter.

11 **440.998 Uniformity of application and construction.** In applying and
12 construing this subchapter, consideration must be given to the need to promote
13 uniformity of the law with respect to its subject matter among the states that enact
14 the Uniform Athlete Agents Act.

15 **440.9985 Electronic Signatures in Global and National Commerce Act.**
16 The provisions of this subchapter governing the legal effect, validity, or
17 enforceability of electronic records or signatures, and of contracts formed or
18 performed with the use of such records or signatures conform to the requirements
19 of section 102 of the federal Electronic Signatures in Global and National Commerce
20 Act, 15 USC 7002, and supersede, modify, and limit the federal Electronic Signatures
21 in Global and National Commerce Act, 15 USC 7001 to 7031.

22 **440.999 Rules.** The department shall promulgate rules that define
23 unprofessional conduct for purposes of s. 440.992 (2) (c).

24 **SECTION 4. Nonstatutory provisions.**

1 (1) If an athlete agent, as defined in section 440.99 (2) of the statutes, as created
2 by this act, or student athlete, as defined in section 440.99 (11) of the statutes, as
3 created by this act, is subject to a contract that is in effect on the effective date of this
4 subsection and that contains provisions that are inconsistent with subchapter XII of
5 chapter 440 of the statutes, as created by this act, then, notwithstanding subchapter
6 XII of chapter 440 of the statutes, as created by this act, the athlete agent or student
7 athlete may perform his or her obligations, and exercise his or her rights, under that
8 contract until the contract expires, is extended, is modified, or is renewed, whichever
9 occurs first.

10 (2) The department of regulation and licensing may, using the procedure under
11 section 227.24 of the statutes, promulgate the rules under section 440.9935 of the
12 statutes, as created by this act, for the period before permanent rules become
13 effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2)
14 of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes,
15 the department is not required to provide evidence that promulgating rules under
16 this subsection as emergency rules is necessary for the preservation of the public
17 peace, health, safety, or welfare and is not required to provide findings of emergency
18 for rules promulgated under this subsection.

19 (3) The department of regulation and licensing shall include, as part of its
20 2005–07 biennial budget request that it submits to the department of administration
21 under section 16.42 of the statutes, any recommended changes to the initial and
22 renewal fees for registration as an athlete agent that are necessary to reflect the
23 approximate administrative and enforcement costs of the department that are
24 attributable to the regulation of athlete agents and any proposed statutory changes
25 that are required to establish such changes to the fees by statute rather than by rule.

