



April 16, 2013

To: Chair Hass and Members of Senate Education and Workforce Development Committee
From: Jeff Hawkins, Senior Associate Athletic Director University of Oregon
Re: HB 3296, Athlete Agent Legislation and Oversight

As professional player salaries in all kinds of sports have skyrocketed, we have seen tremendous growth in the number of “athlete agents.” These athlete agents have powerful economic incentives to form relationships with high school and college student athletes. Unfortunately, they sometimes use improper benefits like cash and cars that put these students’ education and athletic careers at risk.

In response, elected officials have enacted laws that regulate and punish athlete agents who break these laws. On the federal level, that law is the Sports Agent Responsibility and Trust Act (i.e., SPARTA); on the state level that law is the Uniform Athlete Agent Act (i.e., UAAA).

The intention of these laws is to protect student-athletes, to create oversight of the athlete agent industry, and police the often times shadowy interactions between athlete agents and student athletes. Other goals of the laws were to standardize registration procedures and record-keeping policies and create a fair and practical monitoring and disciplinary system. In theory, these laws were supposed to create a level playing field for everyone, including athlete agents.

However, the very essence of the problem has been the blurred definition of the term “athlete agent.” The “athlete agent” that negotiates a contract is now supported by a number of people such as weight and speed trainers, mentors, marketing representatives, tax advisors, tutors, spiritual advisers, etc. Within the industry, these people are called “runners.” A “runner” offers a **paid service** that includes forming relationships with student athletes and then directing them towards an “athlete agent” when it comes time to negotiate the big money contracts that attracts people to this industry. The problem is these “runners” call themselves everything but what they truly are: agents. This enables these “runners” to avoid regulations created to protect student athletes.

It’s not only college athletes who are being victimized. High school athletes are increasingly becoming regular targets of these “runners” who seek to cash in on young high school athletes naiveté by offering them as to colleges and universities, for the right price.

This is a big issue because “runners” are casting such a broad net, touching a lot of student-athletes. By our analysis, 80% of Oregon college football players think they will play in the NFL. All of these students are remarkable athletes, and “runners” befriend through various guises (e.g., marketing representative; religious advisor; financial planner), many of them in hopes of being connected with the 2.4% of college football players who become professional athletes.

Recently the NCAA sought to provide clarity by expanding the definition of athlete-agent to cover all individuals who essentially “seek to represent and to gain profit.”

12.02.1 Agent. *An agent is **any** individual who, directly or indirectly:*

- a) Represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain; or*
- b) Seeks to obtain any type of financial gain or benefit from securing a prospective student-athlete's enrollment at an educational institution or from a student-athlete's potential earnings as a professional athlete.*

12.02.1.1 Application. *An agent may include, but is not limited to, a certified contract advisor, financial advisor, marketing representative, brand manager or **anyone** who is employed or associated with such persons. The intent is to specify that an agent is **any** individual who, directly or indirectly, represents or attempts to represent an individual for the purpose of marketing his or her athletics ability or reputation for financial gain, or seeks to obtain any type of financial gain or benefit from securing a prospective student-athlete's enrollment at an educational institution or from a student-athlete's potential earnings as a professional athlete.*

House Bill 3296 does three things. First, it makes Oregon statute consistent with the NCAA definition. By doing so, we ensure that anyone who is looking to make a profit off of a student-athlete must contact the institution. Second, it provides clear direction about the person an athlete agent is required to contact at an educational institution. This creates a level of transparency that is good for everyone and keeps athlete agents from “blurring the lines” by not defining themselves as what they really are. And third, it creates meaningful enforcement of the law. Currently, enforcement is left to local district attorneys who are without the resources and time to pursue these kinds of cases. This bill brings this issue under the Unfair Trade Practices Act (UTPA).

Although the UAAA has been on the books for well over a decade and currently 42 states have adopted the law, no state has effectively *enforced* it in its present form and it has been largely ineffective. This is in part due to the many inconsistencies from one state to another, but mostly they are unsuccessful because they are simply not enforced.

Recently, North Carolina’s Secretary of State filed charges against an athlete agent and a third-party who were funneling cash to University of North Carolina players. The case devastated the UNC Tarheels’ football program and implicated more than a dozen players. It remains to be seen if they will ever be convicted, but the charges have initiated prosecution (see appended handout regarding this issue).

Never before has the chance to create positive change been better than it is right now. We know what doesn’t work and have an opportunity to fix the problem. HB 3296 is the first step in that process.

Thank you for your time and consideration.

Sincerely,
Jeff Hawkins

Attachment A

Warrant: Ex-Heels provided cash

Updated: March 11, 2013, 5:58 PM ET

Associated Press

RALEIGH, N.C. -- Investigators in North Carolina say a Georgia-based sports agent violated sports agent laws by sending cash payments and other benefits to former Tar Heels football players.

In search warrants unsealed Monday, investigators with the Secretary of State's office say Terry Watson of the Watson Sports Agency sent \$2,000 cash in 2010 to Marvin Austin, who was dismissed from the team that year for receiving improper benefits. They also say Watson had contact with players before registering with the state.

The office launched its probe in 2010 shortly after the start of an NCAA investigation at the school. The law prohibits agents from offering gifts before a contract is signed and can lead to criminal or civil penalties.

Both North Carolina and Georgia are among 42 states with laws regulating sports agents.

When she launched that investigation, Secretary of State Elaine Marshall said the focus was not on athletes or schools -- but on the agents and anyone giving athletes items of value. The state's Uniform Athletes Agents Act requires agents to register with Marshall's office and is designed to shield athletes from sports agents who would offer gifts to entice them to sign representation contracts.

It is a Class I felony to violate the law, meaning a maximum prison sentence of 15 months, and violations also could carry civil penalties of up to \$25,000. Prosecution of the law is left to district attorneys in the locations where violations are alleged to have occurred.

Jim Woodall, the district attorney in Orange County where the university is located, confirmed he has met with the Secretary of State's investigators but declined to comment on specifics of the case because it is an ongoing investigation.

Watson didn't immediately return a call from The Associated Press to his Marietta, Ga.-based office.

Chris Perlera, a spokesman for Georgia Secretary of State Brian Kemp, said Watson is not under investigation in that state. A review of Georgia's sports agents law found that it is similar to North Carolina's, but its criminal penalties range from fines of \$5,000 to \$100,000 and between one and five years in prison. Like the one in North Carolina, it contains possible civil penalties of up to \$25,000.

The search warrants from October, December and January sought computer, financial and office records tied to Watson.

According to the probable cause affidavit in the search warrants, investigator A.H. Jones said Austin told him in an interview that "Terry Watson was a guy who gave me money" and the probe led him to an associate of Watson's named Patrick Jones.

The investigator said Jones admitted Watson had asked him to send packages to athletes he was recruiting to persuade them to sign with him because it was the only way Watson's agency could compete with bigger agencies, that packages containing cash was sent to athletes at other unnamed schools and that Watson contacted athletes almost five months before registering with the state.

Patrick Jones said the only name he could remember Watson mentioning was former receiver Greg Little, who along with Austin and Robert Quinn never played a snap for the Tar Heels in 2010 due to improper benefits.

Investigators later discovered a FedEx package sent in October 2010 from Watson to former tutor Jennifer Wiley, who was tied to academic misconduct violations and provided more than \$1,900 in improper benefits to Little for an airline change fee and parking tickets. The address was provided by Little's close friend and phone records showed nine calls between Watson and Little the day the package was sent, though the December search warrant doesn't specify exactly what was in the package.

Joseph B. Cheshire V, Wiley's attorney, declined to comment on the warrants Monday.

Watson also paid for hotel accommodations through a runner for Quinn and former UNC player Jordan Nix during a trip to Miami in May 2010, according to the December search warrant. Nix wasn't charged with a violation during the NCAA probe.

In addition, investigators found Watson had a receipt for a \$212 wire transfer from Jones to former Florida linebacker Brandon Spikes, now with the NFL's New England Patriots. They also found text messages from Watson to former South Carolina cornerback Chris Culliver -- now with the San Francisco 49ers -- requesting account information and instructing Culliver to delete the messages, according to the January search warrant.

The NFL Players Association website lists the Watson Sports Agency as having negotiated six active contracts. The warrant mentions defensive back Cortland Finnegan, who signed a five-year, \$50 million contract with the St. Louis Rams last year, as one of its clients.