

HOUSE AMENDMENTS TO HOUSE BILL 3296

By COMMITTEE ON HIGHER EDUCATION AND WORKFORCE DEVELOPMENT

April 1

1 On page 1 of the printed bill, line 2, after “702.005” insert “, 702.012, 702.027, 702.047, 702.052”.
2 Delete lines 4 through 29.

3 On page 2, delete lines 1 through 37 and insert:

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

5 “702.005. As used in ORS 702.005 to 702.065, 702.991 and 702.994:

6 “(1) ‘Agency contract’ means [*an*]:

7 “**(a) A written or oral agreement in which a student athlete authorizes a person, organization**
8 **or legal, commercial or other entity to negotiate or solicit on behalf of the student athlete a**
9 **professional sports services contract or an endorsement contract; or**

10 “**(b) A written or oral agreement entered into by a student athlete that makes the stu-**
11 **dent athlete ineligible to participate in an interscholastic or intercollegiate sport because of**
12 **a violation of rules or regulations established by a state or national organization that gov-**
13 **erns student athlete eligibility or participation.**

14 “(2)(a) ‘Athlete agent’ means an individual who [*enters into an agency contract with a student*
15 *athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract.*
16 *‘Athlete agent’ includes an individual who represents to the public that the individual is an athlete*
17 *agent.*], **directly or indirectly:**

18 “**(A) Represents or attempts to represent a student athlete for the purpose of marketing**
19 **the student athlete’s athletic ability or reputation for financial gain; or**

20 “**(B) Seeks to obtain a type of financial gain or benefit from securing a prospective stu-**
21 **dent athlete’s enrollment at an educational institution or from a student athlete’s potential**
22 **earnings as a professional athlete.**

23 “(b) ‘Athlete agent’ does not include a spouse, parent, sibling, grandparent or legal guardian of
24 the student athlete or an individual acting solely on behalf of a professional sports team or profes-
25 sional sports organization.

26 “(3) ‘Athletic director’ means:

27 “**(a) An individual responsible for administering the overall athletic program of an educational**
28 **institution or, if an educational institution has separately administered athletic programs for male**
29 **students and female students, the athletic program for males or the athletic program for females,**
30 **as appropriate[.];**

31 “**(b) If the educational institution is a public or private elementary school or secondary**
32 **school and the educational institution does not have a person responsible for administering**
33 **the overall athletic program:**

34 “**(A) The principal of the educational institution; or**

35 “**(B) If the educational institution does not have a principal, the person designated by the**

1 governing body of the school district, education service district or charter school to manage
2 the educational institution; or

3 “(c) If the educational institution is a community college or university and the educa-
4 tional institution does not have a person responsible for administering the overall athletic
5 program:

6 “(A) The president of the educational institution; or

7 “(B) If the educational institution does not have a president, the Chancellor of the
8 Oregon University System or, if the educational institution is not a part of the Oregon Uni-
9 versity System, the person designated by the governing body of the educational institution
10 to manage the educational institution.

11 “(4) ‘Contact’ means a communication, direct or indirect, between an athlete agent and a student
12 athlete, to recruit or solicit the student athlete to enter into an agency contract.

13 “(5) ‘Educational institution’ means a public or private elementary school, secondary
14 school, community college, university or other educational institution.

15 “[5] (6) ‘Endorsement contract’ means an agreement under which a student athlete is employed
16 or receives consideration to use on behalf of the other party any value that the student athlete may
17 have because of publicity, reputation, following or fame obtained because of athletic ability or per-
18 formance.

19 “[6] (7) ‘Intercollegiate sport’ means a sport played at the collegiate level for which eligibility
20 requirements for participation by a student athlete are established by a national association for the
21 promotion or regulation of collegiate athletics.

22 “[7] (8) ‘Person’ means an individual, corporation, business trust, estate, trust, partnership,
23 limited liability company, association, joint venture, public body, as defined in ORS 174.109, or any
24 other legal or commercial entity.

25 “[8] (9) ‘Professional sports services contract’ means an agreement under which an individual
26 is employed, or agrees to render services, as a player on a professional sports team, with a profes-
27 sional sports organization or as a professional athlete.

28 “[9] (10) ‘Record’ means information that is inscribed on a tangible medium or that is stored
29 in an electronic or other medium and is retrievable in perceivable form.

30 “[10] (11) ‘Registration’ means registration as an athlete agent pursuant to ORS 702.005 to
31 702.065, 702.991 and 702.994.

32 “[11] (12) ‘State’ means a state of the United States, the District of Columbia, Puerto Rico, the
33 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
34 United States.

35 “[12] (13) ‘Student athlete’ means an individual **attending an educational institution within**
36 **this state** who engages in, is eligible to engage in or may be eligible in the future to engage in any
37 **interscholastic or** intercollegiate sport. If an individual is permanently ineligible to participate in
38 a particular **interscholastic or** intercollegiate sport, the individual is not a student athlete for
39 purposes of that sport.

40 “**SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS 702.005 to**
41 **702.065.**

42 “**SECTION 3. (1) Before initiating contact with a student athlete, an athlete agent shall**
43 **provide written notice to the athletic director of the educational institution at which the**
44 **student athlete is enrolled or admitted. Notice provided under this subsection must state**
45 **that the athlete agent intends to contact a student athlete at the educational institution.**

1 “(2) The written notice required by subsection (1) of this section may be delivered per-
2 sonally or by registered or certified mail, electronic mail, facsimile or other electronic
3 means.

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

5 “702.012. (1) Except as otherwise provided in subsection (2) of this section, an individual may
6 not act as an athlete agent in Oregon without holding a certificate of registration issued under this
7 section or ORS 702.019.

8 “(2) Before being issued a certificate of registration, an individual may act as an athlete agent
9 in Oregon for all purposes except [*signing*] **entering into** an agency contract, if:

10 “(a) A student athlete [*or another person acting on behalf of the student athlete*] initiates com-
11 munication with the individual; and

12 “(b) Within seven days after an initial act as an athlete agent, the individual submits an appli-
13 cation for registration as an athlete agent in Oregon.

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

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

19 “(5) The department may refuse to issue a certificate of registration if the department deter-
20 mines that the applicant has engaged in conduct that has a significant adverse effect on the
21 applicant’s fitness to act as an athlete agent. In making the determination, the department may
22 consider whether the applicant has:

23 “(a) Been convicted of a crime that, if committed in Oregon, would be a crime involving moral
24 turpitude or a felony;

25 “(b) Made a materially false, misleading, deceptive or fraudulent representation in the applica-
26 tion or as an athlete agent;

27 “(c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

28 “(d) Engaged in conduct prohibited by ORS 702.027;

29 “(e) Had a registration or licensure as an athlete agent suspended, revoked or denied or been
30 refused renewal of registration or licensure as an athlete agent in any state;

31 “(f) Engaged in conduct the consequence of which was that a sanction, suspension or declaration
32 of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on
33 a student athlete or educational institution; or

34 “(g) Engaged in conduct that significantly adversely reflects on the applicant’s credibility, hon-
35 esty or integrity.

36 “(6) In making a determination under subsection (5) of this section, the department shall con-
37 sider:

38 “(a) How recently the conduct occurred;

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

40 “(c) Any other relevant conduct of the applicant.

41 “(7) An athlete agent may apply to renew a registration by submitting an application for re-
42 newal in a form prescribed by the department. The application for renewal must be signed by the
43 applicant under penalty of perjury and must contain current information on all matters required in
44 an original registration.

45 “(8) An individual who has submitted an application for renewal of registration or licensure in

1 another state, in lieu of submitting an application for renewal in the form prescribed pursuant to
2 subsection (7) of this section, may file a copy of the application for renewal and a valid certificate
3 of registration or licensure from the other state. The department shall accept the application for
4 renewal from the other state as an application for renewal in Oregon if the application to the other
5 state:

6 “(a) Was submitted in the other state within the preceding six months and the applicant certifies
7 that the information contained in the application for renewal is current;

8 “(b) Contains information substantially similar to or more comprehensive than that required in
9 an application for renewal submitted in Oregon; and

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

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

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

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

16 “**SECTION 5.** ORS 702.027 is amended to read:

17 “702.027. An athlete agent may not intentionally:

18 “(1) Initiate contact with a student athlete unless registered under ORS 702.005 to 702.065,
19 702.991 and 702.994;

20 “(2) Refuse or fail to retain or permit inspection of the records required to be retained by ORS
21 702.059;

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

23 “(4) Provide materially false or misleading information in an application for registration or re-
24 newal of registration;

25 “(5) Predate or postdate [*an*] **a written** agency contract; or

26 “(6) Fail to notify a student athlete before the student athlete [*signs or otherwise authenticates*]
27 **enters into** an agency contract for a particular sport that [*the signing or authentication*] **entering**
28 **into the agency contract** may make the student athlete ineligible to participate as a student
29 athlete in that sport.

30 “**SECTION 6.** ORS 702.047 is amended to read:

31 “702.047. (1) [*An*] **A written** agency contract must be in a record, signed or otherwise
32 authenticated by the parties.

33 “(2) [*An*] **A written** agency contract must state or contain:

34 “(a) The amount and method of calculating the consideration to be paid by the student athlete
35 for services to be provided by the athlete agent under the contract and any other consideration the
36 athlete agent has received or will receive from any other source for entering into the contract or
37 for providing the services;

38 “(b) The name of any person not listed in the application for registration or renewal of regis-
39 tration who will be compensated because the student athlete signed the **written** agency contract;

40 “(c) A description of any expenses that the student athlete agrees to reimburse;

41 “(d) A description of the services to be provided to the student athlete;

42 “(e) The duration of the contract; and

43 “(f) The date of execution.

44 “(3) [*An*] **A written** agency contract must contain, in close proximity to the signature of the
45 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] **A written** agency contract that does not conform to this section is voidable by the student athlete. If a student athlete voids [an] **a written** agency contract **under this subsection**, 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] **written** agency contract to the student athlete at the time of execution.

“**SECTION 7.** ORS 702.052 is amended to read:

“702.052. (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] **entering into the agency contract.**

“(2) The right of a student **athlete** to cancel [a] **an agency** 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.”.

In line 38, delete “4” and insert “8”.

On page 5, line 31, delete “5” and insert “9”.
