

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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Short Title: Sports Agents/DMV Police Authority.

(Public)

Sponsors:

Referred to:

March 14, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO STRENGTHEN THE UNIFORM ATHLETE AGENTS ACT, TO AMEND THE  
3 LAWS DEALING WITH LICENSURE OF PERSONS ENGAGING IN THE PRACTICE  
4 OF NATURAL HAIR CARE, AND TO AMEND THE SUPPLEMENTAL LAW  
5 ENFORCEMENT AUTHORITY OF DIVISION OF MOTOR VEHICLE OFFICERS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 9 of Chapter 78C of the General Statutes reads as rewritten:

8 "Article 9.

9 "Uniform Athlete Agents Act.

10 **"§ 78C-85. Title.**

11 This Article may be cited as the "Uniform Athlete Agents Act".

12 ...

13 **"§ 78C-89. Registration as athlete agent; form; requirements.**

14 (a) An individual seeking registration as an athlete agent shall submit an application for  
15 registration to the Secretary of State in a form prescribed by the Secretary of State. The  
16 application must be in the name of an individual and, ~~except as otherwise provided in~~  
17 ~~subsection (b) of this section, and~~ signed or otherwise authenticated by the applicant under  
18 penalty of perjury and must state or contain the following:

19 ...

20 (b) ~~An individual who has submitted an application for registration or licensure as an~~  
21 ~~athlete agent in another state or who holds a certificate of registration or licensure as an athlete~~  
22 ~~agent in another state may submit a copy of the application and certificate in lieu of submitting~~  
23 ~~an application in the form prescribed pursuant to subsection (a) of this section. The Secretary of~~  
24 ~~State shall accept the application and the certificate from the other state as an application for~~  
25 ~~registration in this State if the application to the other state satisfied all of the following criteria:~~

26 (1) ~~Was submitted in the other state within six months immediately preceding~~  
27 ~~the submission of the application in this State and the applicant certifies that~~  
28 ~~the information contained in the application is current.~~

29 (2) ~~Contains information substantially similar to or more comprehensive than~~  
30 ~~that required in an application submitted in this State.~~

31 (3) ~~Was signed by the applicant under penalty of perjury.~~

32 An applicant for registration as an athlete agent in North Carolina pursuant to G.S. 78C-88  
33 shall submit with the application a satisfactory cash bond or proof of establishment of a trust



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1 account in that amount with a licensed and insured bank or savings institution located in the  
2 State of North Carolina. The bond or trust account shall be in favor of the State of North  
3 Carolina. If a trust account is established, the applicant shall include with the application two  
4 copies of the formal notification by the depository that the trust account is established. Any  
5 bond shall be delivered by the Secretary of State to the Treasurer of the State of North Carolina  
6 to be maintained in an interest-bearing special fund. The amount of the cash bond or trust  
7 account shall be:

- 8 (1) Fifty thousand dollars (\$50,000) to be submitted with the applicant's initial  
9 application for registration as an athlete agent in North Carolina;
- 10 (2) An additional twenty-five thousand dollars (\$25,000) to be submitted with  
11 the applicant's first renewal application for registration as an athlete agent in  
12 North Carolina; and
- 13 (3) An additional twenty-five thousand dollars (\$25,000) to be submitted with  
14 the applicant's second renewal application for registration as an athlete agent  
15 in North Carolina.

16 At no time shall the total cash bond or trust account principal exceed one hundred thousand  
17 dollars (\$100,000) for an individual athlete agent.

18 (b1) The cash bond shall be returnable to the athlete agent six months after the athlete  
19 agent ceases to be a registered North Carolina athlete agent or the Secretary of State has denied  
20 the application for registration or renewal, unless the Secretary of State has been notified of  
21 pending legal action against the agent by an educational institution pursuant to G.S. 78C-100.  
22 The bond or trust account shall be available to satisfy any award or judgment to the educational  
23 institution arising from the athlete agent's violation of this Article. The Treasurer of the State of  
24 North Carolina or the bank or savings institution holding the trust account shall release the  
25 principal and interest accrued on the cash bond or trust account only upon receipt of a court  
26 order directing release or upon certification by the Secretary of State that no notice of pending  
27 legal action has been received pursuant to this section from an educational institution.

28 (c) An application filed under this section is a "public record" within the meaning of  
29 Chapter 132 of the General Statutes.

30 ...

#### 31 **"§ 78C-94. Required form of contract.**

32 (a) An agency contract must be in a record, signed or otherwise authenticated by the  
33 parties. The student-athlete's signature shall be acknowledged before a notary public.

34 ...

#### 35 **"§ 78C-97. Required records; waiver of attorney-client privilege.**

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

- 37 (1) The name and address of each individual represented by the athlete agent.
- 38 (2) Any agency contract entered into by the athlete agent.
- 39 (3) Any ~~direct cost~~ expenses incurred by the athlete agent, or any person  
40 acting at the direction of the athlete agent, in the recruitment or solicitation  
41 of a student-athlete to enter into an agency contract.
- 42 (4) A list of all other athlete agents affiliated with the athlete agent, employees  
43 of the athlete agent, and all persons acting at the direction of the athlete  
44 agent in the recruitment or solicitation of student-athletes to enter into  
45 agency contracts.
- 46 (5) A list of all telephone numbers, including records for each number showing  
47 all incoming and outgoing communications, used by the athlete agent, or any  
48 person acting at the direction of the athlete agent, in the recruitment or  
49 solicitation of a student-athlete to enter into an agency contract.
- 50 (6) All checkbooks, bank statements, canceled checks, and credit card  
51 statements for all accounts used by the athlete agent, or any person acting at

1 the direction of the athlete agent, in the recruitment or solicitation of a  
2 student-athlete to enter into an agency contract.

3 (7) Originals or copies of all written communications sent by the athlete agent,  
4 or any person acting at the direction of the athlete agent, to a student-athlete  
5 or to any other person to recruit or solicit a student-athlete to enter into an  
6 agency contract.

7 (8) A record of all communications between an athlete agent, or any person  
8 acting at the direction of the athlete agent, with a student-athlete or any  
9 person for the purpose of recruiting or soliciting a student-athlete to enter  
10 into an agency contract.

11 (9) Any other record the Secretary of State by rule prescribes.

12 For purposes of subdivisions (7) and (8) of this subsection, "communication" includes all  
13 oral communication and written communication. Written communications include handwritten  
14 correspondence, printed correspondence, mailings, text messages, and electronic  
15 communications, such as e-mails and communications through social and professional  
16 networking sites.

17 (b) Records required to be retained by subsection (a) of this section are open to  
18 inspection by the Secretary of State during normal business hours. An athlete agent shall  
19 deliver within 10 business days any records required to be retained by subsection (a) of this  
20 section if requested by the Secretary of State or the Secretary's designee.

21 (c) Where a student-athlete enters into an agency contract regulated under this Article,  
22 the student-athlete will be deemed to waive the attorney-client privilege with respect to records  
23 required to be retained by subsection (a) of this section, subject to G.S. 78C-94(f).

24 (d) Within five business days after entering into an agency contract with an individual  
25 who was a student-athlete at an educational institution located in this State, the athlete agent  
26 shall provide a copy of the executed agency contract to the Secretary of State. This requirement  
27 shall only apply to former student-athletes entering into their first agency contract.

28 (e) Within five business days after being contacted by a person who may have an  
29 expectation of direct gain or profit or reimbursement of expenses from the agency contract  
30 regarding a student-athlete at an educational institution located in this State, the athlete agent  
31 shall notify the Secretary of State in writing. The notification shall state the person's name, the  
32 person's contact information, the identity of the student-athlete, the method of communication,  
33 and the date of the communication. This requirement shall not apply if the person contacting  
34 the athlete agent is the student-athlete, spouse, parent, sibling, or guardian of the  
35 student-athlete, or employed by the educational institution. Information provided to the  
36 Secretary of State pursuant to this subsection is protected by G.S. 132-1.2(1) from disclosure as  
37 a public record.

38 **"§ 78C-98. Prohibited ~~conduct~~conduct of athlete agents.**

39 ...

40 (b) An athlete agent shall not intentionally:

41 (1) Initiate contact with a student-athlete unless the athlete agent is registered  
42 under this Article.

43 (2) Refuse or fail to retain or permit inspection of the records required to be  
44 retained by G.S. 78C-97.

45 (3) Fail to register as required by G.S. 78C-88.

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

48 (5) Predate or postdate an agency contract.

49 (6) Fail to notify a student-athlete before the student-athlete signs or otherwise  
50 authenticates an agency contract for a particular sport that the signing or

1 authentication shall make the student-athlete ineligible to participate as a  
2 student-athlete in that sport.

3 (7) Furnish anything of value to a student-athlete before the student-athlete  
4 enters into an agency contract.

5 **"§ 78C-98.1. Prohibited conduct of non-athlete agents.**

6 (a) A person shall not:

7 (1) Furnish anything of value to a student-athlete or a student-athlete's spouse,  
8 parent, child, sibling, or guardian before the student-athlete enters into an  
9 agency contract; and

10 (2) Advise, influence, guide, recommend, encourage, oppose, or discourage the  
11 student-athlete's selection of a specific athlete agent with the expectation of  
12 profit, compensation, salary, gratuity, or benefit in any form.

13 (b) Nothing in this section shall prevent a spouse, parent, sibling, grandparent, or  
14 guardian of a student-athlete or an educational institution which the student-athlete attends  
15 from furnishing anything of value to the student-athlete.

16 ...

17 **"§ 78C-101. Administrative penalty.**

18 The Secretary of State may assess a civil penalty against ~~an athlete agent~~ any person in an  
19 amount not to exceed less than ten thousand dollars (\$10,000) nor more than twenty-five  
20 thousand dollars (\$25,000) for a each violation of the provisions of this Article. The Secretary  
21 of State may also seek injunctive relief or any other relief available by law to enforce the  
22 provisions of this Article."

23 **SECTION 2.** Section 13 of S.L. 2009-251, as amended by Section 24 of S.L.  
24 2011-26, reads as rewritten:

25 **"SECTION 13.** Any natural hair care specialist who submits proof to the Board that the  
26 natural hair care specialist is actively engaged in the practice of a natural hair care specialist on  
27 the effective date of this act, passes an examination conducted by the Board and pays the  
28 required fee under G.S. 88B-20 shall be licensed without having to satisfy the requirements of  
29 G.S. 88B-10.1, enacted by Section 2 of this act. A cosmetic art shop that practices natural hair  
30 care only and that submits proof to the Board that the shop is actively engaged in the practice of  
31 natural hair care on the effective date of this act shall have ~~two~~ three years from the date of this  
32 act to comply with the requirements of G.S. 88B-14. All persons who do not make application  
33 to the Board within ~~two~~ three years of the effective date of this act shall be required to complete  
34 all training and examination requirements prescribed by the Board and to otherwise comply  
35 with the provisions of Chapter 88B of the General Statutes."

36 **SECTION 3.** G.S. 20-49.1 reads as rewritten:

37 **"§ 20-49.1. Supplemental police authority of Division officers.**

38 (a) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the  
39 Commissioner and the officers and inspectors of the Division whom the Commissioner  
40 designates have the authority to enforce criminal laws under any of the following  
41 circumstances:

42 (1) When they have probable cause to believe that a person has committed a  
43 criminal act in their ~~presence and at the time of the violation they are~~  
44 ~~engaged in the enforcement of laws otherwise within their~~  
45 ~~jurisdiction.~~ presence.

46 (2) When they are asked to provide temporary assistance by the head of a State  
47 or local law enforcement agency or his designee and the request is within the  
48 scope of the agency's subject matter jurisdiction.

49 While acting pursuant to this subsection, the Division officers shall have the same powers  
50 vested in law enforcement officers by statute or common law. When acting pursuant to  
51 subdivision (2) of this subsection, the Division officers shall not be considered an officer,

1 employee, or agent of the State or local law enforcement agency or designee asking for  
2 temporary assistance. Nothing in this section shall be construed to expand the Division officers'  
3 authority to initiate or conduct an independent investigation into violations of criminal laws  
4 outside the scope of their subject matter or territorial jurisdiction.

5 (b) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the  
6 Commissioner and the officers and inspectors of the Division whom the Commissioner  
7 designates have the authority ~~to investigate to:~~

8 (1) Investigate drivers license fraud and identity thefts related to drivers license  
9 fraud and to make arrests for these offenses.

10 (2) Perform additional duties as peace officers as may from time to time be  
11 directed by the Governor.

12 (3) Either upon their own motion or at the request of any sheriff or local police  
13 authority, investigate crimes occurring on property, equipment, or materials  
14 owned or leased by the Department of Transportation and to make arrests for  
15 these offenses."

16 **SECTION 4.** Section 1 of this act becomes effective December 1, 2012, and  
17 applies to contracts entered into or offenses committed on or after that date. Sections 2 and 3  
18 of this act are effective when they become law. The remainder of this act is effective when it  
19 becomes law.