

20107192D

HOUSE BILL NO. 832**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on February 4, 2020)

(Patron Prior to Substitute—Delegate Sullivan)

A BILL to amend and reenact § 59.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Title 54.1 a chapter numbered 5.2, consisting of sections numbered 54.1-519 through 54.1-535, relating to the Department of Professional and Occupational Regulation; registration of athlete agents; penalty; civil penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-200 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 54.1 a chapter numbered 5.2, consisting of sections numbered 54.1-519 through 54.1-535, as follows:

CHAPTER 5.2.
ATHLETE AGENTS.

§ 54.1-519. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional sports services contract or endorsement contract.

"Athlete agent" means an individual, whether or not registered under this chapter, who (i) directly or indirectly recruits or solicits a student-athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student-athlete as a professional athlete or member of a professional sports team or organization; (ii) for compensation or in anticipation of compensation related to a student-athlete's participation in athletics (a) serves the student-athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution, or (b) manages the business affairs of the student-athlete by providing assistance with bills, payments, contracts, or taxes; or (iii) in anticipation of representing a student-athlete for a purpose related to the student-athlete's participation in athletics (a) gives consideration to the student-athlete or another person, (b) serves the student-athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, or (c) manages the business affairs of the student-athlete by providing assistance with bills, payments, contracts, or taxes. "Athlete agent" does not include an individual who (a) acts solely on behalf of a professional sports team or organization or (b) is a licensed, registered, or certified professional and offers or provides services to a student-athlete customarily provided by members of the profession, unless the individual (1) also recruits or solicits the student-athlete to enter into an agency contract, (2) also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the student-athlete as a professional athlete or member of a professional sports team or organization, or (3) receives consideration for providing the services calculated using a different method than for an individual who is not a student-athlete.

"Athletic director" means the individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

"Director" means the Director of the Department of Professional and Occupational Regulation.

"Educational institution" means a public or private (i) elementary school, (ii) secondary school, (iii) technical or vocational school, (iv) community college, or (v) institution of higher education.

"Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

"Enrolled" or "enrolls" means registered for courses and attending athletic practice or class.

"Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association that promotes or regulates collegiate athletics.

"Interscholastic sport" means a sport played between educational institutions that are not community colleges or institutions of higher education.

"Licensed, registered, or certified professional" means an individual, other than an athlete agent,

60 *who is licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance*
61 *agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession by the*
62 *Commonwealth or a nationally recognized organization that licenses, registers, or certifies members of*
63 *the profession on the basis of experience, education, or testing.*

64 *"Person" means an individual, estate, business or nonprofit entity, public corporation, government or*
65 *governmental subdivision, agency, or instrumentality or other legal entity.*

66 *"Professional sports services contract" means an agreement under which an individual is employed*
67 *as a professional athlete or agrees to render services as a player on a professional sports team or with*
68 *a professional sports organization.*

69 *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic*
70 *or other medium and is retrievable in perceivable form.*

71 *"Recruit or solicit" means an attempt to influence the choice of an athlete agent by a student-athlete*
72 *or, if the student-athlete is a minor, a parent or guardian of the student-athlete. "Recruit or solicit" does*
73 *not include giving advice on the selection of a particular agent in a family, coaching, or social situation*
74 *unless the individual giving the advice does so because of the receipt or anticipated receipt of an*
75 *economic benefit, directly or indirectly, from the agent.*

76 *"Registration" means registration as an athlete agent.*

77 *"Sign" means, with present intent to authenticate or adopt a record, (i) to execute or adopt a*
78 *tangible symbol or (ii) to attach to or logically associate with the record an electronic symbol, sound,*
79 *or process.*

80 *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States*
81 *Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.*

82 *"Student-athlete" means an individual who is eligible to attend an educational institution and*
83 *engages in, is eligible to engage in, or may be eligible in the future to engage in any interscholastic or*
84 *intercollegiate sport. "Student-athlete" does not include, for a particular interscholastic or intercollegiate*
85 *sport, an individual permanently ineligible to participate in that sport.*

86 **§ 54.1-520. Authority; procedure.**

87 *A. The Director shall administer and enforce the provisions of this chapter. In addition to the powers*
88 *and duties otherwise authorized by law, the Director shall have the powers and duties of a regulatory*
89 *board authorized by § 54.1-202 that are consistent with this chapter and shall have the power and duty*
90 *to (i) promulgate such regulations in accordance with the Administrative Process Act (§ 2.2-4000 et*
91 *seq.) as are necessary to implement this chapter, (ii) charge each applicant for registration or renewal*
92 *of registration a nonrefundable fee subject to the provisions of § 54.1-113, and (iii) issue cease and*
93 *desist orders and otherwise seek to prevent continuing violations of this chapter.*

94 *B. This chapter, and any existing relevant regulations that are consistent with this chapter, shall*
95 *govern the regulation of athlete agents in the Commonwealth unless and until the Director promulgates*
96 *new or revised regulations pursuant to subsection A.*

97 *C. By acting as an athlete agent in the Commonwealth, a nonresident individual appoints the*
98 *Secretary of the Commonwealth as the individual's agent for service of process in any civil action in the*
99 *Commonwealth related to the individual acting as an athlete agent in the Commonwealth.*

100 *D. The Director may issue a subpoena for material that is relevant to the administration of this*
101 *chapter.*

102 **§ 54.1-521. Athlete agent; registration required; void contract.**

103 *A. Except as otherwise provided in subsection B, an individual may not act as an athlete agent in*
104 *the Commonwealth without holding a valid certificate of registration under this chapter.*

105 *B. Before being issued a certificate of registration under this chapter, an individual may act as an*
106 *athlete agent in the Commonwealth for all purposes except signing an agency contract if (i) a*
107 *student-athlete or another person acting on behalf of the student-athlete initiates communication with the*
108 *individual and (ii) not later than seven days after an initial act that requires the individual to register*
109 *as an athlete agent under this chapter, the individual submits an application for registration as an*
110 *athlete agent in the Commonwealth.*

111 *C. An agency contract resulting from conduct in violation of this section is void, and the athlete*
112 *agent shall return any consideration received under the contract.*

113 **§ 54.1-522. Registration as athlete agent; application; requirements; reciprocal registration;**
114 **penalty.**

115 *A. An applicant for registration as an athlete agent shall submit an application for registration to*
116 *the Director in a form prescribed by the Director. The applicant shall be an individual, and the*
117 *application shall be signed by the applicant under penalty of perjury and shall contain at least the*
118 *following:*

119 *1. The name and date and place of birth of the applicant and the following contact information for*
120 *the applicant: (i) the address of the applicant's principal place of business; (ii) work and mobile*
121 *telephone numbers; and (iii) any means of communicating electronically, including a facsimile number,*

email address, and personal and business or employer websites;

2. The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

3. Each social media account with which the applicant or the applicant's business or employer is affiliated;

4. Each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

5. A description of the applicant's (i) formal training as an athlete agent, (ii) practical experience as an athlete agent, and (iii) educational background relating to the applicant's activities as an athlete agent;

6. The name of each student-athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the student-athlete is a minor, the name of the parent or guardian of the student-athlete, together with the student-athlete's sport and last known team;

7. The name and address of each person that (i) is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation and (ii) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;

8. A description of the status of any application by the applicant, or any person named under subdivision 7, for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

9. Whether the applicant, or any person named under subdivision 7, has pleaded guilty or no contest to, has been convicted of, or has charges pending for a crime that would involve moral turpitude or be a felony if committed in the Commonwealth and, if so, identification of (i) the crime, (ii) the law-enforcement agency involved, and (iii) if applicable, the date of the conviction and the fine or penalty imposed;

10. Whether, within 15 years before the date of application, the applicant, or any person named under subdivision 7, has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence, and, if so, the date and a full explanation of each proceeding;

11. Whether the applicant, or any person named under subdivision 7, has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;

12. Whether, within 10 years before the date of application, the applicant, or any person named under subdivision 7, was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

13. Whether there has been any administrative or judicial determination that the applicant, or any person named under subdivision 7, made a false, misleading, deceptive, or fraudulent representation;

14. Each instance in which conduct of the applicant, or any person named under subdivision 7, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event of a student-athlete or a sanction on an educational institution;

15. Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under subdivision 7, arising out of occupational or professional conduct;

16. Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under subdivision 7, as an athlete agent in any state;

17. Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

18. If the applicant is certified or registered by a professional league or players association, (i) the name of the league or association; (ii) the date of certification or registration and the date of expiration of the certification or registration, if any; and (iii) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of the certification or registration or any reprimand or censure related to the certification or registration;

19. Whether the applicant is seeking an annual or two-year license; and

20. Any additional information required by the Director.

B. Instead of proceeding under subsection A, an individual registered as an athlete agent in another state may apply for registration as an athlete agent in the Commonwealth by submitting to the Director (i) a copy of the application for registration in the other state; (ii) a statement that identifies any material change in the information on that application or verifies there is no material change in the

183 information, signed under penalty of perjury; and (iii) a copy of the certificate of registration from the
184 other state.

185 C. The Director shall issue a certificate of registration to an individual who applies for registration
186 under subsection B if the Director determines that (i) the application and registration requirements of
187 the other state are substantially similar to or more restrictive than the requirements in this chapter and
188 (ii) the registration has not been revoked or suspended and no action involving the individual's conduct
189 as an athlete agent is pending against the individual or the individual's registration in any state.

190 D. For purposes of implementing subsection C, the Director shall (i) cooperate with national
191 organizations concerned with athlete agent issues and agencies in other states that register athlete
192 agents to develop a common registration form and determine which states have laws that are
193 substantially similar to or more restrictive than this chapter and (ii) exchange information, including
194 information related to actions taken against registered athlete agents or their registrations, with those
195 organizations and agencies.

196 **§ 54.1-523. Certificate of registration; issuance or denials; renewal.**

197 A. Except as otherwise provided in subsection B, the Director shall issue a certificate of registration
198 to an applicant for registration who complies with subsection A of § 54.1-522.

199 B. The Director may refuse to issue a certificate of registration to an applicant for registration under
200 subsection A of § 54.1-522 if the Director determines that the applicant has engaged in conduct that
201 significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the
202 determination, the Director may consider whether the applicant has (i) pleaded guilty or no contest to,
203 has been convicted of, or has charges pending for a crime that would involve moral turpitude or be a
204 felony if committed in the Commonwealth; (ii) made a materially false, misleading, deceptive, or
205 fraudulent representation in the application or as an athlete agent; (iii) engaged in conduct that would
206 disqualify the applicant from serving in a fiduciary capacity; (iv) engaged in conduct prohibited by
207 § 54.1-531; (v) had a registration as an athlete agent suspended, revoked, or denied in any state; (vi)
208 been refused renewal of registration as an athlete agent in any state; (vii) engaged in conduct resulting
209 in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic
210 or intercollegiate athletic event of a student-athlete or a sanction on an educational institution; or (viii)
211 engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

212 C. In making a determination under subsection B, the Director shall consider (i) how recently the
213 conduct occurred, (ii) the nature of the conduct and the context in which it occurred, and (iii) other
214 relevant conduct of the applicant.

215 D. An athlete agent registered under subsection A may apply to renew the registration by submitting
216 an application for renewal in a form prescribed by the Director. The applicant shall sign the
217 application for renewal under penalty of perjury and include current information on all matters required
218 in an original application for registration.

219 E. An athlete agent registered under subsection C of § 54.1-522 may renew the registration by
220 proceeding under subsection D or, if the registration in the other state has been renewed, by submitting
221 to the Director copies of the application for renewal in the other state and the renewed registration
222 from the other state. The Director shall renew the registration if the Director determines (i) the
223 registration requirements of the other state are substantially similar to or more restrictive than the
224 requirements in this chapter and (ii) the renewed registration has not been suspended or revoked and no
225 action involving the individual's conduct as an athlete agent is pending against the individual or the
226 individual's registration in any state.

227 F. A certificate of registration or renewal of registration under this chapter is valid for one or two
228 years, as indicated in the applicant's application.

229 **§ 54.1-524. Suspension, revocation, or refusal to renew registration.**

230 A. The Director may limit, suspend, revoke, or refuse to renew a registration of an individual
231 registered under subsection A of § 54.1-523 for conduct that would have justified refusal to issue a
232 certificate of registration under subsection B of § 54.1-523.

233 B. The Director may suspend or revoke the registration of an individual registered under subsection
234 C of § 54.1-522 or renewed under subsection E of § 54.1-523 for any reason for which the Director
235 could have refused to grant or renew registration or for conduct that would justify refusal to issue a
236 certificate of registration under subsection B of § 54.1-523.

237 **§ 54.1-525. Temporary registration.**

238 The Director may issue a temporary certificate of registration as an athlete agent while an
239 application for registration or renewal of registration is pending.

240 **§ 54.1-526. Registration and renewal fees.**

241 An application for registration or renewal of registration as an athlete agent shall be accompanied
242 by a nonrefundable fee for each of the following: (i) an initial application for registration, (ii) an
243 application for registration based on a certificate of registration or its equivalent issued by another
244 state, (iii) an application for renewal of registration, and (iv) an application for renewal of registration

based on a renewal of registration or its equivalent in another state.

That fee shall be:

1. For a one-year registration or renewal, in the amount of \$700;
2. For a two-year registration or renewal, in the amount of \$1,150; or
3. For the fee set forth in subdivision 1 or 2, or both, of this section, a higher or lower fee that the Director determines by regulation is necessary and consistent with § 54.1-113.

§ 54.1-527. Required form of agency contract.

A. An agency contract shall be in a record signed by the parties.

B. An agency contract shall contain:

1. A statement that the athlete agent is registered as an athlete agent in the Commonwealth and a list of any other states in which the agent is registered as an athlete agent;
2. The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the agent under the contract and any other consideration the agent has received or will receive from any other source for entering into the contract or providing the services;
3. The name of any person not listed in the agent's application for registration or renewal of registration which will be compensated because the student-athlete signed the contract;
4. A description of any expenses the student-athlete agrees to reimburse;
5. A description of the services to be provided to the student-athlete;
6. The duration of the contract; and
7. The date of execution.

C. Subject to subsection G, an agency contract shall contain a conspicuous notice in boldface type and in substantially the following form:

"WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

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

(2) IF YOUR EDUCATIONAL INSTITUTION HAS AN ATHLETIC DIRECTOR, WITHIN 72 HOURS OF SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS. HOWEVER, CANCELLATION OF THIS CONTRACT DOES NOT GUARANTEE REINSTATEMENT OF YOUR ELIGIBILITY AS A STUDENT-ATHLETE IN YOUR SPORT."

D. An agency contract shall be accompanied by a separate record signed by the student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete acknowledging that signing the contract may result in the loss of the student-athlete's eligibility to participate in the student-athlete's sport.

E. A student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.

F. At the time an agency contract is executed, the athlete agent shall give the student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete a copy in a record of the contract and the separate acknowledgement required by subsection D.

G. If a student-athlete is a minor, an agency contract shall be signed by the parent or guardian of the student-athlete and the notice required by subsection C shall be revised accordingly.

§ 54.1-528. Notice to educational institution.

A. For purposes of this section, "communication or attempt to communicate" or any variation thereof means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

B. Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or at which the agent has reasonable grounds to believe the student-athlete intends to enroll.

C. Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that the student-athlete has entered into an agency contract and the name and contact information of the

306 athlete agent.

307 D. If an athlete agent enters into an agency contract with a student-athlete and the student-athlete
308 subsequently enrolls at an educational institution, the agent shall notify the athletic director of the
309 institution of the existence of the contract not later than 72 hours after the agent knew or should have
310 known the student-athlete enrolled.

311 E. If an athlete agent has a relationship with a student-athlete before the student-athlete enrolls in
312 an educational institution and receives an athletic scholarship from the institution, the agent shall notify
313 the institution of the relationship not later than 10 days after the enrollment if the agent knows or
314 should have known of the enrollment and (i) the relationship was motivated in whole or in part by the
315 intention of the agent to recruit or solicit the student-athlete to enter an agency contract in the future or
316 (ii) the agent directly or indirectly recruited or solicited the student-athlete to enter an agency contract
317 before the enrollment.

318 F. An athlete agent shall give notice in a record to the athletic director of any educational institution
319 at which a student-athlete is enrolled before the agent communicates or attempts to communicate with
320 (i) the student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete to
321 influence the student-athlete or parent or guardian to enter into an agency contract or (ii) another
322 individual to have that individual influence the student-athlete or, if the student-athlete is a minor, the
323 parent or guardian of the student-athlete to enter into an agency contract.

324 G. If a communication or attempt to communicate with an athlete agent is initiated by a
325 student-athlete or another individual on behalf of the student-athlete, the agent shall notify in a record
326 the athletic director of any educational institution at which the student-athlete is enrolled. The
327 notification shall be made not later than 10 days after the communication or attempt to communicate.

328 H. An educational institution that becomes aware of a violation of this chapter by an athlete agent
329 shall notify the Director and any professional league or players association with which the institution is
330 aware the agent is licensed or registered of the violation.

331 **§ 54.1-529. Student-athlete's right to cancel.**

332 A. A student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete
333 may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later
334 than 14 days after the contract is signed.

335 B. A student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete
336 may not waive the right to cancel an agency contract.

337 C. If a student-athlete or, if the student-athlete is a minor, a parent or guardian of the
338 student-athlete cancels an agency contract, the student-athlete or, if the student-athlete is a minor, the
339 parent or guardian of the student-athlete is not required to pay any consideration under the contract or
340 return any consideration received from the athlete agent to influence the student-athlete to enter into the
341 contract.

342 **§ 54.1-530. Required records.**

343 A. An athlete agent shall create and retain for five years records of the following:

- 344 1. The name and address of each student-athlete represented by the agent;
345 2. Each agency contract entered into by the agent; and
346 3. The direct costs incurred by the agent in the recruitment or solicitation of each student-athlete to
347 enter into an agency contract.

348 B. Records described in subsection A shall be open to inspection by the Director during normal
349 business hours.

350 **§ 54.1-531. Prohibited conduct.**

351 An athlete agent may not intentionally:

352 1. Give a student-athlete or, if the student-athlete is a minor, a parent or guardian of the
353 student-athlete materially false or misleading information or make a materially false promise or
354 representation with the intent to influence the student-athlete or, if the student-athlete is a minor, a
355 parent or guardian of the student-athlete to enter into an agency contract;

356 2. Furnish anything of value to a student-athlete or another individual, if to do so may result in loss
357 of the student-athlete's eligibility to participate in the student-athlete's sport, unless (i) the agent notifies
358 the athletic director of the educational institution at which the student-athlete is enrolled or at which the
359 agent has reasonable grounds to believe the student-athlete intends to enroll, not later than 72 hours
360 after giving the thing of value and (ii) the student-athlete or, if the student-athlete is a minor, a parent
361 or guardian of the student-athlete acknowledges to the agent in a record that receipt of the thing of
362 value may result in loss of the student-athlete's eligibility to participate in the student-athlete's sport;

363 3. Initiate contact, directly or indirectly, with a student-athlete or, if the student-athlete is a minor, a
364 parent or guardian of the student-athlete to recruit or solicit the student-athlete or, if the student-athlete
365 is a minor, a parent or guardian of the student-athlete to enter an agency contract unless registered
366 under this chapter;

367 4. Fail to create, retain, or permit inspection of the records required by § 54.1-530;

- 368 5. Fail to register when required by § 54.1-521;
- 369 6. Provide materially false or misleading information in an application for registration or renewal of
370 registration;
- 371 7. Predate or postdate an agency contract;
- 372 8. Fail to notify a student-athlete or, if the student-athlete is a minor, a parent or guardian of the
373 student-athlete before the student-athlete or, if the student-athlete is a minor, a parent or guardian of
374 the student-athlete signs an agency contract for a particular sport that the signing may result in loss of
375 the student-athlete's eligibility to participate in the student-athlete's sport;
- 376 9. Encourage another individual to do any of the acts described in subdivisions 1 through 8 on
377 behalf of the agent; or
- 378 10. Encourage another individual to assist any other individual in doing any of the acts described in
379 subdivisions 1 through 8 on behalf of the agent.
- 380 **§ 54.1-532. Criminal penalty.**
- 381 An athlete agent who violates § 54.1-531 is guilty of a Class 1 misdemeanor and in addition, the
382 Director may suspend the agent's certificate of registration for no more than 12 months.
- 383 **§ 54.1-533. Civil remedy; penalty.**
- 384 A. An educational institution or student-athlete may bring an action for damages against an athlete
385 agent if the institution or student-athlete is adversely affected by an act or omission of the agent in
386 violation of this chapter. An educational institution or student-athlete is adversely affected by an act or
387 omission of the agent only if, because of the act or omission, the institution or an individual who was a
388 student-athlete at the time of the act or omission and enrolled in the institution (i) is suspended or
389 disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules
390 of a state or national federation or association that promotes or regulates interscholastic or
391 intercollegiate sports or (ii) suffers financial damage.
- 392 B. A plaintiff that prevails in an action under this section may recover actual damages, punitive
393 damages, costs, and reasonable attorney fees. An athlete agent found liable under this section forfeits
394 any right of payment for anything of benefit or value provided to the student-athlete and shall refund
395 any consideration paid to the agent by or on behalf of the student-athlete.
- 396 C. A violation of this chapter also shall constitute a violation of the Virginia Consumer Protection
397 Act (§ 59.1-196 et seq.).
- 398 D. The Director may assess a civil penalty against an athlete agent not to exceed \$50,000 for a
399 violation of this chapter.
- 400 **§ 54.1-534. Uniformity of application of construction.**
- 401 Consideration shall be given to the need to promote uniformity of the law with respect to its subject
402 matter among states that enact substantially similar laws.
- 403 **§ 54.1-535. Relation to Electronic Signatures in Global and National Commerce Act.**
- 404 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National
405 Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act,
406 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that
407 act, 15 U.S.C. § 7003(c).
- 408 **§ 59.1-200. Prohibited practices.**
- 409 A. The following fraudulent acts or practices committed by a supplier in connection with a consumer
410 transaction are hereby declared unlawful:
- 411 1. Misrepresenting goods or services as those of another;
- 412 2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
- 413 3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or
414 services, with another;
- 415 4. Misrepresenting geographic origin in connection with goods or services;
- 416 5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or
417 benefits;
- 418 6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
- 419 7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective,
420 blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfections, or "not first
421 class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods
422 are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds,"
423 irregulars, imperfections or "not first class";
- 424 8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell
425 at the price or upon the terms advertised.
- 426 In any action brought under this subdivision, the refusal by any person, or any employee, agent, or
427 servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms
428 advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph

shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain animals by pet dealers which is described in such sections, is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.);

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.);

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.);

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4

- (§ 59.1-207.17 et seq.);
22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.);
23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.);
24. Violating any provision of § 54.1-1505;
25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.);
26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;
27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.);
28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.);
29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.);
30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.);
31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.);
32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;
33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;
34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;
35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;
36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
37. Violating any provision of § 8.01-40.2;
38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.);
40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.);
42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.);
43. Violating any provision of § 59.1-443.2;
44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.);
45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.);
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1;
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed;
55. Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1;
56. Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.);
57. Violating any provision of § 18.2-178, 18.2-178.1, or 18.2-200.1;
58. Violating any provision of Chapter 17.8 (§ 59.1-207.45 et seq.);
59. Violating any provision of subsection E of § 32.1-126; ~~and~~
60. Violating any provision of § 54.1-111 relating to the unlicensed practice of a profession licensed under Chapter 11 (§ 54.1-1100 et seq.) or Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1; *and*
61. *Violating any provision of Chapter 5.2 (§ 54.1-519 et seq.) of Title 54.1.*

552 B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or
553 lease solely by reason of the failure of such contract or lease to comply with any other law of the
554 Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation
555 provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable
556 such contract or lease.

557 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
558 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
559 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
560 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
561 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**
562 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be**
563 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**