

AMENDED IN SENATE FEBRUARY 24, 1997

SENATE BILL

No. 84

Introduced by Senator Ayala

~~(Coauthor: Assembly Member Miller)~~

(Coauthors: Assembly Members Miller and Murray)

December 16, 1996

An act to amend Section 18895.2 of the Business and Professions Code, relating to athlete agents, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 84, as amended, Ayala. Athlete agents: talent agencies.

The Miller-Ayala Athlete Agents Act regulates the activities of athlete agents, as specified. Under the act, certain professional persons are excluded from the definition of "athlete agent" if the professional person offers or provides the type of services customarily provided by that person's profession and does not otherwise recruit or solicit an athlete to enter into any agent contract, endorsement contract, financial services contract, or professional sports services contract, or engage in other specified activities. Existing law also regulates talent agencies, which are licensed by the Labor Commissioner.

This bill would additionally exclude from the definition of ~~'athlete agent'~~ "athlete agent" a licensed talent agency, ~~if the talent agency has as clients or is seeking to obtain as clients one or more artists who are athletes, providing the athletes are not student athletes and the talent agency does not engage in any of the other activities of an athlete agent, as specified unless~~

the talent agency recruits or solicits a student athlete, as specified, or unless the talent agency, for compensation, seeks to obtain employment for any person to perform on-field play with a professional sports team or organization.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18895.2 of the Business and
2 Professions Code is amended to read:

3 18895.2. The following definitions govern the
4 construction of this chapter:

5 (a) "Agent contract" means any contract or
6 agreement pursuant to which a person authorizes or
7 empowers an athlete agent to negotiate or solicit on
8 behalf of the person with one or more professional sports
9 teams or organizations for the employment of the person
10 by one or more professional sports teams or organizations,
11 or to negotiate or solicit on behalf of the person for the
12 employment of the person as a professional athlete.

13 (b) (1) "Athlete agent" means any person who,
14 directly or indirectly, recruits or solicits an athlete to
15 enter into any agent contract, endorsement contract,
16 financial services contract, or professional sports services
17 contract, or for compensation procures, offers, promises,
18 attempts, or negotiates to obtain employment for any
19 person with a professional sports team or organization or
20 as a professional athlete.

21 (2) (A) "Athlete agent" does not include a person
22 licensed as an attorney, dealer in securities, financial
23 planner, insurance agent, real estate broker or sales
24 agent, or tax consultant, or other professional person,
25 when the professional person offers or provides the type
26 of services customarily provided by that profession,
27 except and solely to the extent that the professional
28 person also recruits or solicits an athlete to enter into any
29 agent contract, endorsement contract, or professional



1 sports services contract, or for compensation procures,
2 offers, promises, attempts, or negotiates to obtain
3 employment for any person with a professional sports
4 team or organization or as a professional athlete.

5 (B) “Athlete agent” also does not include any person
6 acting solely on behalf of a professional sports team or
7 organization.

8 (C) “Athlete agent” also does not include a talent
9 agency as defined in subdivision (a) of Section 1700.4 of
10 the Labor Code and licensed by the Labor Commissioner
11 pursuant to Chapter 4 (commencing with Section 1700)
12 of Part 6 of Division 2 of the Labor Code, ~~if the talent
13 agency has as clients or is seeking to obtain as clients one
14 or more artists who are athletes, as long as those clients or
15 potential clients are not student athletes, and if the talent
16 agency does not engage in any other activities of an
17 athlete agent as described in the definition of athlete
18 agent in paragraph (1). except as otherwise provided in
19 this paragraph. “Athlete agent” includes a talent agency
20 that (i) directly or indirectly recruits or solicits a student
21 athlete to enter into an agent contract, endorsement
22 contract, financial services contract, or professional sports
23 services contract, or (ii) for compensation, procures,
24 offers, promises, attempts, or negotiates to obtain
25 employment for any person to perform on-field play with
26 a professional sports team or organization.~~

27 (3) Sections 18897.6 and 18897.63 do not apply to an
28 individual acting as an athlete agent solely for his or her
29 spouse, child, or grandchild.

30 (c) “Employment as a professional athlete” includes
31 employment pursuant to an endorsement contract or a
32 professional sports services contract.

33 (d) “Endorsement contract” means any contract or
34 agreement pursuant to which a person is employed or
35 receives remuneration for any value or utility that the
36 person may have because of publicity, reputation, fame,
37 or following obtained because of athletic ability or
38 performance.



1 (e) “Financial services” means the making or
2 execution of an investment or other financial decision, or
3 counseling as to a financial decision.

4 (f) “Negotiate” includes any contact on behalf of any
5 athlete with a professional sports team or organization or
6 on behalf of any person with any other person who
7 employs or potentially may employ the person as a
8 professional athlete, regardless of whether the contact is
9 made in person, in writing, electronically, through
10 representatives or employees, or in any other manner.
11 “Negotiate” also includes being present during any
12 discussion of an endorsement contract or professional
13 sports services contract with representatives of the
14 professional sports team or organization or potential or
15 actual employer.

16 (g) “Person” means any individual, company,
17 corporation, association, partnership, limited liability
18 company, or their agents or employees.

19 (h) “Professional sports services contract” means any
20 contract or agreement pursuant to which a person is
21 employed or agrees to render services as a player on a
22 professional sports team or organization or as a
23 professional athlete.

24 (i) (1) “Student athlete” means any individual
25 admitted to or enrolled as a student, in an elementary or
26 secondary school, college, university, or other
27 educational institution if the student participates, or has
28 informed the institution of an intention to participate, as
29 an athlete in a sports program where the sports program
30 is engaged in competition with other educational
31 institutions.

32 (2) “Student athlete” does not include any person who
33 has entered into a valid agent contract, a valid
34 endorsement contract, or a valid professional sports
35 services’ contract. “Student athlete” does not include any
36 student of a college or university whose eligibility to
37 participate in an intercollegiate sport has terminated, as
38 determined by the governing body of the state or national
39 association for the promotion and regulation of



1 intercollegiate athletics of which the student's college or
2 university is a member.

3 SEC. 2. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or
5 safety within the meaning of Article IV of the
6 Constitution and shall go into immediate effect. The facts
7 constituting the necessity are:

8 In order to clarify, at the earliest possible time,
9 provisions of the Miller-Ayala Athlete Agents Act relative
10 to the status of talent agencies, it is necessary for this act
11 to take effect immediately.

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