

# ENROLLED BILL

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House Bill No. 78

(By Mr. Ross)

Passed February 27, 1931

In Effect Ninety days from Passage

Originated in the House  
Takes effect  
Ninety days from Passage.  
Clerk of the House of Delegates.

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Chairman House Committee.  
Chairman Senate Committee.

# ENROLLED BILL

(H. B. No. 78)

[Passed February 27, 1931; in effect ninety days from passage.]

AN ACT establishing a state athletic commission regulating boxing, sparring and wrestling in the state of West Virginia, and repealing section twenty-six of article two of chapter sixty-one of the code of West Virginia.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a board to be known as the state athletic commission of West Virginia. Within thirty days after this act takes effect the governor shall appoint three persons to be members of such commission, no more than two of whom shall belong to the same political party, and no two of whom shall be residents of the same county at the same time, and who shall serve without pay, one of whom shall serve until July first, one thousand nine hundred thirty-two, one until July first, one thousand nine hundred thirty-three, and one until July first, one thousand nine hundred thirty-four. At the expiration of the term of each member his successor shall be appointed for a term

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12 of three years. In the event of a vacancy in said board said  
13 vacancy shall likewise be filled by appointment by the governor  
14 and the governor shall likewise have the power to remove any  
15 commissioner at his pleasure. Any two members of the commis-  
16 sion shall constitute a quorum for the exercise of the power or  
17 authority conferred upon it. The members of the commission  
18 shall at the first meeting after their appointment elect one of  
19 their number chairman of the commission, and another of their  
20 number secretary of the commission, shall adopt a seal for the  
21 commission, and shall make such rules for the administration  
22 of their office, not inconsistent herewith, as they may deem ex-  
23 pedient; and they may hereafter amend or abrogate such rules.  
24 The concurrence of at least two commissioners shall be necessary  
25 to render a choice or decision of the commission.

Sec. 2. The office of the commission may be changed at  
2 pleasure by the said commission. It shall be the duty of the  
3 secretary to keep a full and true record of all proceedings of said  
4 commission, to preserve all its books, documents and papers, to  
5 prepare for service such notices and other papers as may be re-  
6 quired of him by the commission, and to perform such other  
7 duties as the commission may prescribe; and he may, under di-

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8 rection of the commission, issue subpoenas for the attendance  
9 of witnesses before the commission with the same effect as if  
10 they were issued in an action in any circuit court of the state,  
11 and may administer oaths in all matters pertaining to the duties  
12 of his office or connected with the administration of the affairs  
13 of the commission. Disobedience of such subpoena and false  
14 swearing before such secretary shall be attended by the same  
15 consequences and be subject to the same penalties as if such  
16 disobedience or false swearing occurred in an action in any cir-  
17 cuit court of the state. The commission shall make to the legis-  
18 lature biennial reports of their proceedings for the two years  
19 ending with the last day of the preceding December, and may  
20 submit with such report, such recommendations pertaining to  
21 its affairs, as to it shall seem advisable.

Sec. 3. The commission shall retain out of all moneys re-  
2 ceived by it, as hereinafter provided, such sum as shall cover all  
3 necessary traveling and other necessary expense of the members  
4 of the commission. All moneys so received by the commission in  
5 excess of two thousand five hundred dollars per annum shall be  
6 by the secretary of said commission paid over to the treasurer  
7 of the state of West Virginia, together with the full financial

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8 statement of all moneys received and expended, and the secre-  
9 tary of the commission shall annually make report of the fiscal  
10 affairs of the commission for the preceding year to the treasurer  
11 of the state of West Virginia.

Sec. 4. The commission may designate as its official head-  
2 quarters the residence or place of business of any one of its mem-  
3 bers, or may, if it chooses, maintain an office, but the expense of  
4 said office, in case such is maintained, shall also be paid out of  
5 the sum of two thousand five hundred dollars provided for in  
6 section three.

Sec. 5. The commission shall have and hereby is vested with  
2 the sole direction, management and control of and jurisdiction  
3 over all boxing, wrestling and sparring matches and exhibitions  
4 to be conducted, held or given within the state by any club,  
5 corporation or association; and no boxing, sparring, wrestling  
6 match, or exhibition shall be conducted, held or given within  
7 the state except pursuant to its authority and held in accordance  
8 with this act. The commission may, in its discretion, issue and,  
9 at its pleasure, revoke the license to conduct, hold, or give box-  
10 ing, sparring or wrestling matches and exhibitions to any club,  
11 corporation or association which shall at the time of applica-

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tion therefor own or hold a lease for a term of at least one year  
upon the building wherein it may be proposed to conduct, hold  
or give such boxing, sparring or wrestling match or exhibition.  
Every license shall be subject to such rules and regulations and  
amendments thereto as the commission may prescribe. Every  
application for a license, as herein provided for, shall be on  
a blank form provided by the commission. No license shall be  
granted to any club, corporation or association, unless the signer  
of the application be a bona fide resident of the state of West Vir-  
ginia. Upon the issuance of such license by the commission, the  
applicant shall pay a state license tax to the commission of five  
hundred dollars for one year, or a proportionate part thereof for  
shorter periods, should such license not be granted at the be-  
ginning of the fiscal year, but in no instance shall the license fee  
be less than one hundred dollars, payable and collectible as are  
other license taxes. The end of the license year shall be June  
thirtieth. No municipal corporation shall impose any license  
tax on any such boxing, sparring or wrestling club, notwith-  
standing the provisions of any section of the code respecting  
municipal taxes and licenses. The granting of such license to  
such club by the commission, or the holding of such license by

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33 such club, individual or association, shall not prevent the com-  
34 mission from canceling or revoking the license to conduct such  
35 a club, as hereinbefore provided.

Sec. 6. No boxing or sparring match or exhibition shall be  
2 more than twelve rounds of three minutes each in length with  
3 intermission of one minute each between rounds; and the con-  
4 testants shall wear, during such contests, gloves weighing at least  
5 six ounces; and no exhibition or contest shall be held on Sun-  
6 day.

Sec. 7. Any club, corporation or association which may con-  
2 duct, hold or give or participate in any sham or fake boxing,  
3 sparring, wrestling match or exhibition, shall thereby forfeit its  
4 license issued in accordance with the provisions of this act, which  
5 shall thereupon be, by the commission, cancelled and declared  
6 void; and it shall not be entitled to receive another such  
7 license or any license pursuant to the provisions of this  
8 act, nor shall any license thereafter be granted to any club, cor-  
9 poration or association, including among its members, directors,  
10 partners, or stockholders any member, director, partner or stock-  
11 holder of the club, corporation or association whose license has  
12 been so forfeited. Any contestant who shall participate in any

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13 sham or fake boxing, sparring or wrestling match or exhibition,  
14 and any other person whatsoever who shall in any manner be  
15 connected with the arranging, planning, holding, conducting or  
16 giving of any such sham or fake boxing, sparring or wrestling  
17 match or exhibition, shall be guilty of a misdemeanor, and shall  
18 upon conviction thereof, be fined not less than five hundred  
19 dollars, nor more than one thousand dollars, and be confined  
20 in jail for a period of not less than six months, nor more than  
21 one year; and any contestant so participating shall be further  
22 totally disqualified from further admission or participation in  
23 any boxing, sparring, or wrestling contest held or given by any  
24 club, corporation or association duly licensed for said purposes.

Sec. 8. Every club, corporation or association which may  
2 hold or exercise any of the privileges conferred by this act,  
3 shall, within twenty-four hours after the determination of any  
4 contest, furnish to the commission a written report, duly veri-  
5 fied by one of its officers, showing the number of tickets sold for  
6 such contest and the amount of the gross proceeds thereof, and  
7 such other matters as the commission may prescribe, and shall  
8 also, within such time pay to the secretary of the commission  
9 a tax of five per cent of the total gross receipts from the sale



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10 of tickets of admission to such boxing, sparring or wrestling  
 11 match or exhibition. Before any license shall be granted to any  
 12 club, corporation or association to conduct, hold or give any  
 13 boxing, sparring or wrestling match or exhibition, such applicant  
 14 therefor shall execute and file with the commission a bond in  
 15 the sum of five thousand dollars, to be approved as to form and  
 16 the sufficiency of the security thereon by the said commission,  
 17 conditioned for the payment of the tax hereby imposed.

Sec. 9. Whenever any such club, corporation or association  
 2 shall fail to make a report of any contest at the time prescribed  
 3 by this act, or whenever such report is unsatisfactory to the  
 4 commission, the commission or any member thereof may examine  
 5 or cause to be examined the books and records of such club,  
 6 corporation or association, and subpoena and examine under  
 7 oath its officers and other persons as witnesses for the purpose  
 8 of determining the total amount of its gross receipts for any  
 9 contest and the amount of tax due in pursuance of the provisions  
 10 of this act, and upon such examination and as a result thereof  
 11 the commission may fix and determine the tax. In case of the  
 12 default in the payment of any tax so ascertained to be due, to-  
 13 gether with the expenses incurred in making such examination,

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14 for a period of twenty days after notice <sup>to</sup> ~~of~~ such delinquent club,  
15 corporation or association of the amount at which the same may  
16 be fixed by the said commission, such delinquent club shall  
17 ipso facto forfeit its license; and it shall be thereby disqualified  
18 from receiving any new license or any renewal of license; and  
19 it shall, in addition, forfeit and pay the sum of five hundred  
20 dollars, which may be recovered by the said commission by suit  
21 in any circuit court of the state.

Sec. 10. Each member of the commission shall have the  
2 privilege of being present at all exhibitions and matches with-  
3 out charge therefor, and shall, when present, see that the rules  
4 are strictly observed, and may be present at the counting of the  
5 gross receipts; and in the event that no member of the commis-  
6 sion can be present, the commission may appoint an inspector  
7 to be present representing said commission, which inspector shall  
8 have the same privilege hereby conferred upon a member of the  
9 commission; and said inspector shall immediately mail to the  
10 commission the official box office statement received by him from  
11 the officers of the club.

Sec. 11. The chief official of the boxing match or exhibition  
2 shall be the referee. The referee shall be appointed by the com-

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mission, and shall receive from the commission a card authorizing him to act as such referee, and no club shall employ or permit any one to act as referee except one holding such card of authorization from the commission. The referee shall have general supervision and control over the match or exhibition.

Sec. 12. In any boxing, sparring or wrestling match or exhibition, each contestant must be examined prior to entering the ring by a physician who has been in active practice in the state of West Virginia for not less than five years. The physician shall certify in writing over his signature, as to contestant's physical condition to engage in such contest. And said physician shall be in attendance during the contest prepared to deal with any emergency which may arise. Said physician shall file such report of examination with the commission within the period of twenty-four hours after the contest. But in the event that said physician is convinced of the unfitness of either of the contestants to enter the contest, he shall at once certify such opinion to the club, corporation or association under whose management the contest is conducted, and it shall thereupon be unlawful for said club, corporation or association to proceed with such contest.

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Sec. 13. No boxer shall be permitted to contest against an  
2 opponent ten pounds heavier than himself when the weight of  
3 either contestant is less than one hundred and fifty pounds.

Sec. 14. No contestant, referee or second shall be permitted  
2 to take part in any boxing contest, unless holding a license from  
3 the state, said license to be issued by the commission for one  
4 year or proportion thereof, dating from July first to June thir-  
5 tieth upon the payment of ten dollars, said license to be re-  
6 voked upon conviction of violation of this act.

Sec. 15. Any person who shall engage in boxing, sparring or  
2 wrestling contest with another person for money or other such  
3 things of value, or for any championship, when an admission fee  
4 is charged, either directly or indirectly in this state, except when  
5 such contest is held in compliance with this statute, shall be  
6 deemed guilty of a misdemeanor and upon conviction thereof  
7 shall be fined not less than fifty dollars, and not more than five  
8 hundred dollars.

Sec. 16. If any person shall violate any provision of this  
2 act, for which violation a penalty is not here expressly pro-  
3 vided, he shall be guilty of a misdemeanor, and upon conviction  
4 thereof, shall be fined not less than fifty dollars, nor more than

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5 five hundred dollars.

Sec. 17. Nothing in this act contained shall be construed to  
2 render unlawful a boxing, sparring or wrestling contest for any  
3 charitable purpose, the American Legion, National Guard, Vet-  
4 erans of Foreign Wars, United Spanish War Veterans, Disabled  
5 Americans Veterans of the World War, or other charitable or-  
6 ganization, but a special permit shall be obtained from the com-  
7 mission. No charge shall be made for such special permit other  
8 than the five per cent of the gross receipts provided for in sec-  
9 tion eight, but failure to obtain same shall be construed a mis-  
10 demeanor.

Sec. 18. That section twenty-six of article two of chapter  
2 sixty-one of the code of West Virginia, and all other acts and  
3 parts of acts inconsistent with this act, be and the same are  
4 hereby repealed.

CORRECTLY ENROLLED

*James O. Smith*  
Chairman Senate Committee.

*R. H. Tins*  
Clerk of the House of Delegates.

*J. Alfred Taylor*  
Speaker of the House of Delegates.

*M. G. White*  
President of the Senate.

*M. Stodges*  
Clerk of the Senate.

The within is *Approved*

this *7<sup>th</sup>* day of *March* 1931.

*W. E. Gentry*  
Governor.

*James W. Meadows*  
Chairman House Committee.

Filed in the office of the Secretary of State  
of West Virginia **MAR 9 1931**  
GEORGE W. SHARP,  
Secretary of State.