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2015 APR -2 P 12:39

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

OFFICE WEST VIRGINIA
SECRETARY OF STATE



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 436

(SENATOR NOHE, *ORIGINAL SPONSOR*)

[PASSED MARCH 14, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 436

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(SENATOR NOHE, *ORIGINAL SPONSOR*)

[Passed March 14, 2015; in effect ninety days from passage.]

AN ACT to repeal §29-5A-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-5A-1, §29-5A-2, §29-5A-3, §29-5A-3a, §29-5A-5, §29-5A-6, §29-5A-8, §29-5A-17, §29-5A-19, §29-5A-20 and §29-5A-24 of said code; and to amend said code by adding thereto two new sections, designated §29-5A-1a and §29-5A-3b, all relating to the State Athletic Commission; changing composition of commission; requiring that office of commission be located on the premises of Lottery Commission office; requiring Lottery Commission to provide administrative support; creating a State Athletic Commission Fund; authorizing expenditures; paying expenses of the commission; setting payment schedule; requiring promoter to ensure attendance of appointed officials; requiring the commission to give advance notice of appointed officials; permitting alternates; prohibiting the commission from performing certain functions at events; requiring the commission to follow weight classes as adopted by the Association of Boxing Commissions; increasing certain fees;

providing rule-making authority; requiring the commission to follow certain unified rules for professional boxing events; requiring the commission to follow certain unified rules for mixed martial arts events; requiring the commission to follow certain rules for amateur boxing events; and requiring the commission to follow certain rules for amateur mixed martial arts events.

Be it enacted by the Legislature of West Virginia:

That §29-5A-12 of the Code of West Virginia, 1931, as amended, be repealed; that §29-5A-1, §29-5A-2, §29-5A-3, §29-5A-3a, §29-5A-5, §29-5A-6, §29-5A-8, §29-5A-17, §29-5A-19, §29-5A-20 and §29-5A-24 of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §29-5A-1a and §29-5A-3b, all to read as follows:

ARTICLE 5A. STATE ATHLETIC COMMISSION.

§29-5A-1. Creation of commission; members; officers; seal and rules.

1 The State Boxing Commission, heretofore created, is
2 hereby continued and renamed the State Athletic
3 Commission. The commission shall consist of five persons
4 appointed by the Governor, by and with the consent of the
5 Senate, no more than three of whom shall belong to the same
6 political party and no two of whom shall be residents of the
7 same county at the same time. One member shall have at
8 least three years of experience in the sport of boxing. One
9 member shall have at least three years of experience in the
10 sport of mixed martial arts. One member shall have at least
11 three years of experience in the health care industry as a
12 licensed physician, registered nurse, nurse practitioner or
13 physicians assistant. Two members shall be citizen members
14 who are not licensed under the provisions of this article and
15 who do not perform any services related to the persons

16 regulated under this article. The members shall serve without
17 pay. At the expiration of the term of each member, his or her
18 successor shall be appointed by the Governor for a term of
19 four years. If there is a vacancy in the board, the vacancy
20 shall likewise be filled by appointment by the Governor and
21 the Governor shall likewise have the power to remove any
22 commissioner at his or her pleasure. Any three members of
23 the commission shall constitute a quorum for the exercise of
24 the power or authority conferred upon it. The members of the
25 commission shall at the first meeting after their appointment
26 elect one of their number chairman of the commission, and
27 another of their number secretary of the commission, shall
28 adopt a seal for the commission, and shall make such rules
29 for the administration of their office, not inconsistent
30 herewith, as they may consider expedient; and they may
31 hereafter amend or abrogate such rules. The concurrence of
32 at least three commissioners is necessary to render a choice
33 or decision of the commission.

**§29-5A-1a. Commission office; administrative support provided by
Lottery Commission.**

1 The office of the commission shall be located on the same
2 premises as the office of the Lottery Commission and the
3 Lottery Commission shall provide the commission with any
4 necessary administrative support or management, including,
5 but not limited to:

6 (1) Administrative recordkeeping;

7 (2) Maintaining an accurate and published registry of
8 names, addresses and relevant information of all licensees;
9 and

10 (3) Management of finances and budgetary oversight.

§29-5A-2. Powers and duties of secretary; penalty for false swearing, etc.; biennial reports of commission.

1 It shall be the duty of the secretary to keep a full and true
2 record of all proceedings of said commission, to preserve all
3 its books, documents and papers, to prepare for service such
4 notices and other papers as may be required of him or her by
5 the commission and to perform such other duties as the
6 commission may prescribe; and he or she may at the direction
7 of the commission issue subpoenas for the attendance of
8 witnesses before the commission with the same effect as if
9 they were issued in an action in any circuit court of the state
10 and may administer oaths in all matters pertaining to the
11 duties of his or her office or connected with the
12 administration of the affairs of the commission. The
13 subpoenas shall be on forms prescribed by the commission
14 and served by the sheriff's department of the county in which
15 the individual being subpoenaed resides. Such subpoenas
16 shall be signed by at least two members. Disobedience of
17 such subpoena and false swearing before such secretary shall
18 be attended by the same consequences and be subject to the
19 same penalties as if such disobedience or false swearing
20 occurred in an action in any circuit court of the state. The
21 commission shall make to the Legislature biennial reports of
22 their proceedings for the two years ending with the last day
23 of the preceding December and may submit with such report
24 such recommendations pertaining to its affairs, as to it shall
25 seem advisable.

§29-5A-3. Commission to have sole control of boxing, etc., matches; licenses; municipality not to tax boxing, etc., club.

1 (a) The commission has sole direction, management and
2 control of the jurisdiction over all amateur, professional and
3 semiprofessional boxing, sparring matches and exhibitions,
4 or any form thereof, to be conducted, held or given within the

5 state by any club, individual, corporation or association. As
6 used in this article, the term "boxing" includes any fighting
7 event that includes or permits the striking of an opponent
8 with a closed fist, even if wrestling moves, elements of
9 martial arts or striking an opponent with the feet are also
10 permitted. No boxing, sparring or exhibition may be
11 conducted, held or given within the state except pursuant to
12 the commission's authority and held in accordance with this
13 article. The commission may issue and revoke the license to
14 conduct, hold or give boxing or sparring matches or
15 exhibitions to any club, corporation, association or
16 individual. Every license is subject to rules the commission
17 may prescribe. Every application for a license shall be on a
18 blank form provided by the commission. No promoter's
19 license may be granted to any club, corporation, association
20 or individual unless the signer of the application is a bona
21 fide resident of the state of West Virginia. Upon application
22 of the promoter's license, the promoter shall pay a state
23 license fee of \$125 for one year. The fee is nonrefundable
24 and shall be paid in the form of a certified check or money
25 order issued to the Treasurer of the state of West Virginia to
26 be deposited in the fund set forth in section three-b of this
27 article. Nonprofit chartered and charitable organizations are
28 exempt from this license fee for all amateur events. No
29 municipal corporation may impose any license tax on boxing,
30 sparring or exhibition clubs, notwithstanding the provisions
31 of any section of the code respecting municipal taxes and
32 licenses. The granting of a license to a club by the
33 commission, or the holding of a license by a club, individual,
34 corporation or association, does not prevent the commission
35 from canceling or revoking the license to conduct an event as
36 provided in this section.

37 (b) In exercising its jurisdiction over professional and
38 semiprofessional boxing, sparring matches and exhibitions,
39 the commission shall follow the current unified rules of

40 boxing adopted by the Association of Boxing Commissions
41 and requirements to enable the proper sanctioning of all
42 participants, referees, judges and matches or exhibitions
43 conducted under the rules described in subdivision (1),
44 subsection (c), section twenty-four of this article and shall
45 cooperate fully with the Association of Boxing Commissions
46 in order that the sanctioning be extended to state boxers. The
47 commission shall supervise all amateur boxing conducted in
48 this state and any such contest shall follow the amateur rules
49 for boxing as adopted by the United States Amateur Boxing
50 Authority. For full contact boxing events and other boxing
51 events that follow nontraditional rules, the commission may
52 impose any limitations or restrictions reasonably necessary to
53 guarantee the safety of the participants and the fair and
54 honest conducting of the matches or exhibitions and may
55 refuse to license any event that poses an unreasonable degree
56 of risk to the participants.

§29-5A-3a. Power to regulate mixed martial arts.

1 (a) The commission has sole power, direction,
2 management and control over all professional and amateur
3 mixed martial arts contests, matches and exhibitions, or any
4 form thereof, to be promoted, conducted, held or given within
5 the state.

6 (b) As used in this article, the term "mixed martial arts"
7 means a combative sporting contest, the rules of which allow
8 two competitors to attempt to achieve dominance over one
9 another by utilizing a variety of techniques including, but not
10 limited to, striking, grappling and the application of
11 submission holds.

12 (c) A mixed martial arts contest, match or exhibition
13 promoted, conducted, held or given within the state shall be
14 under the commission's authority and be in accordance with

15 the provision of this section. The provisions of this article
16 that apply to boxing shall also apply to mixed martial arts as
17 appropriate.

18 (d) In exercising its jurisdiction over professional and
19 amateur mixed martial arts contests matches and exhibitions,
20 the commission shall follow the current unified rules of
21 mixed martial arts as adopted by the Association of Boxing
22 Commissions to enable the proper equipment, fighting area
23 and weight classes to ensure the safety of contestants and
24 ensure the licensing of all participants, referees and judges,
25 and the approval of contests, matches or exhibitions
26 conducted under the provisions of this section.

27 (e) The commission may issue and revoke a license to
28 promote, conduct, hold or give mixed martial arts contests,
29 matches or exhibitions and may issue and revoke a license to
30 be a contestant. Each license is subject to the provisions of
31 this section and this article and the rules of the commission.

32 (f) The commission shall propose rules for legislative
33 approval, in accordance with the provisions of article three,
34 chapter twenty-nine-a of this code, to implement the
35 provisions of this section, including:

36 (1) Procedures and requirements for the issuance and
37 renewal of licenses: *Provided*, That the procedures and
38 requirements may not:

39 (A) Limit or prohibit mixed martial arts contests, matches
40 or exhibitions; nor

41 (B) Include a provision that a licensee be a West Virginia
42 resident;

43 (2) Exemptions from licensure;

- 44 (3) Procedures for revoking licenses;
- 45 (4) Adopting the unified rules of mixed martial arts;
- 46 (5) A fee schedule;
- 47 (6) Limitations or restrictions necessary to guarantee the
48 safety of the participants;
- 49 (7) The requirements for fair and honest conducting of
50 the contests, matches or exhibitions; and
- 51 (8) Any other rules necessary to effectuate the provisions
52 of this section.

53 (g) Notwithstanding the provisions of this code to the
54 contrary, a municipality may not impose a municipal license
55 tax under section four, article thirteen, chapter eight of this
56 code on mixed martial arts clubs. The granting of a license
57 to a club by the commission, or the holding of a license by a
58 club, individual, corporation or association, does not prevent
59 the commission from revoking the license to conduct an
60 event as provided in this section: *Provided*, That nothing in
61 this subsection limits the authority of a municipality to
62 impose any other taxes or fees on mixed martial arts contests,
63 matches or exhibitions pursuant to article thirteen, chapter
64 eight of this code.

§29-5A-3b. State Athletic Commission Fund.

- 1 (a) All moneys collected shall be deposited in a special
2 account in the state treasury to be known as the State Athletic
3 Commission Fund. Expenditures from the fund shall be for the
4 purposes set forth in this article and are not authorized from
5 collections but are to be made only in accordance with
6 appropriation by the Legislature and in accordance with the

7 provisions of article three, chapter twelve of this code and upon
8 fulfillment of the provisions of article two, chapter eleven-b of
9 this code: *Provided*, That for the fiscal year ending June 30,
10 2016, expenditures are authorized from collections rather than
11 pursuant to appropriation by the Legislature.

12 (b) A supplemental appropriation may be authorized by
13 the Legislature for administrative expenditures that exceed
14 collections in the fiscal years ending June 30, 2016, June 30,
15 2017, and June 30, 2018, or until such time as the
16 commission collections are sufficient to fully fund its
17 operations.

18 (c) All money collected and deposited in the State
19 Athletic Commission Fund that remains after the commission
20 satisfies its administrative operating obligations shall be
21 surplus revenue funds available for appropriation: *Provided*,
22 That the commission may retain surplus revenue funds as
23 long as it allocates the surplus for a specific purpose and
24 approves such funds be carried-forward for use in the
25 following fiscal year prior to the end of the fiscal year in
26 which the revenues were collected.

§29-5A-5. Expense of commission.

1 On or before December 31 of each year, the secretary of
2 the commission shall present to the Governor projected
3 expenses for the following year. Such projections shall
4 include all expenses and revenues of the commission and its
5 official headquarters. Necessary expenses incurred by the
6 commission shall be submitted on a standard expense form to
7 the Treasurer of the state of West Virginia to be paid from the
8 State Athletic Commission Fund except in such
9 circumstances referred to in subsection (b), section three-b of
10 this article designating such expenses be paid from the
11 general fund.

§29-5A-6. Payment of official in charge.

1 The deputy, inspector or other officials designated by the
2 commission to be in charge of a boxing or mixed martial arts
3 event shall be paid by the promoter at a minimum rate of \$75
4 per day for services performed prior to any event at a weigh-
5 in and each day of an event. *Provided*, That not more than
6 one official designated by the commission to be in charge of
7 a boxing or mixed martial arts event may receive
8 compensation for services performed. If a weigh-in occurs
9 within three hours before the boxing bouts are scheduled to
10 begin, the deputy, inspector or other officials will be paid
11 only one rate at a minimum of \$75 for that particular night or
12 day's events. Judges, timekeepers and inspectors shall be
13 paid by the promoter at a minimum rate of \$50 per day for
14 services performed prior to any event and each day of an
15 event. Referees shall be paid by the promoter at a minimum
16 rate of \$75 per day of bouts. Payments to the officials in
17 charge, judges, timekeepers, inspectors or referees exceeding
18 the amounts under this section are prohibited without prior
19 written consent of the promoter: *Provided, however*, That the
20 commission may revise any fees paid to officials through
21 legislative rule-making process beginning June 30, 2018, and
22 every three years thereafter. The commission may not revoke
23 an event permit or license for refusal to pay a fee greater than
24 the fees in this section: *Provided further*, That approved
25 officials are available, willing and able to work the event for
26 the proscribed fees. Deputies, inspectors, judges, referees,
27 timekeepers or any other officials designated by the
28 commission to be in charge of an event shall not accept, other
29 than the fees proscribed herein, any gift, pass or other thing
30 of value in connection with any event.

§29-5A-8. Issuance of license; qualification for licenses; application of other provisions of chapter; hearings.

1 The commission may issue a license to promote, conduct
2 or hold professional boxing, professional or amateur mixed
3 martial arts sparring matches and exhibitions to any person,
4 corporation, association, club or organization eligible for a
5 license under this chapter.

6 Before being granted a license, or the renewal of the
7 license, the applicant must establish to the satisfaction of the
8 commission that he or she:

9 (a) Is skilled, or has knowledge, in the profession of
10 boxing or mixed martial arts;

11 (b) Is of good moral character;

12 (c) Is physically fit and mentally sound;

13 (d) Will conduct his or her business in the best interest
14 and welfare of the public, preserving the safety and health of
15 participants and the best interests of professional boxing or
16 professional or amateur mixed martial arts generally;

17 (e) Will adhere to and comply with all the rules and
18 regulations of the commission pertaining to the license.

19 In the case of a corporate applicant, these factors shall
20 pertain to its officers, directors, principal stockholders and
21 employees.

22 Every license and licensee is subject to such rules, and
23 amendments thereof, as the commission may prescribe.

**§29-5A-17. Referee and judges; appointment by commission; powers,
payment.**

1 (a) The chief official of the boxing match or exhibition
2 shall be the referee. The referee and judges shall be

3 appointed by the commission and shall receive from the
4 commission a card authorizing them to act as such and no
5 club may employ or permit anyone to act as referee except
6 one holding a card of authorization from the commission.
7 The referee has general supervision and control over the
8 match or exhibition and shall be paid by the promoter a
9 minimum of \$75 for each day or night's services. The referee
10 is limited to refereeing a maximum of thirty rounds per day
11 or night unless special consent is given by the commission.

12 (b) Once appointed by the commission, the promoter
13 bears the responsibility for ensuring the attendance of referee
14 and judges at events. The commission shall provide
15 promoters with advance notice of the person(s) appointed as
16 referee and judges. A promoter, at his or her own expense,
17 may request alternate referee(s) and judge(s) be appointed by
18 the commission to serve in the event a first appointed referee
19 or judge is unable to satisfy the role. Under no circumstances
20 may a member of the commission or any employee of the
21 commission serve as a referee or judge for a boxing or mixed
22 martial arts contest conducted in this state.

§29-5A-19. Weight of contestants.

1 No boxer shall be permitted to contest against an
2 opponent ten pounds heavier than himself or herself when the
3 weight of either contestant is less than one hundred fifty
4 pounds. Weight classes as adopted by the Association of
5 Boxing Commissions shall be utilized for all boxing and
6 mixed martial arts contests conducted in this state.

§29-5A-20. Licenses for contestants, referees and managers.

1 No professional contestant, trainer, inspector, referee or
2 professional manager may take part in any boxing contest or
3 exhibition unless holding a license from the state that is

4 issued by the commission upon payment of the following
5 annual license fee schedule: Professional contestant \$25;
6 trainer \$20; inspector \$30; referee \$30 and professional
7 manager \$50. Semiprofessional contestants shall pay a
8 license fee of \$10 for each event. Such fees shall accompany
9 the application and shall be in the form of a certified check or
10 money order and shall be issued to the Treasurer of the state
11 of West Virginia to be deposited in the State Athletic
12 Commission Fund. If a license is not granted, the Treasurer
13 shall refund the full amount.

§29-5A-24. Rules governing contestants and matches.

1 (a) The commission shall propose rules for legislative
2 approval in accordance with the provisions of article three of
3 chapter twenty-nine-a of this code.

4 (b) The commission shall propose such rules to regulate
5 professional and semiprofessional boxers, professional or
6 amateur mixed martial artists, professional and
7 semiprofessional boxing matches and exhibitions and
8 professional or amateur mixed martial arts matches and
9 exhibitions: *Provided*, That for professional boxers and
10 boxing matches and exhibitions, the commission rules shall
11 comply with the current unified rules of boxing as adopted by
12 the Association of Boxing Commissions; for professional
13 mixed martial artists and mixed martial arts matches and
14 exhibitions, the commission rules shall comply with the
15 current unified rules of mixed martial arts as adopted by the
16 Association of Boxing Commissions; for amateur boxers and
17 boxing matches or exhibitions, the commission rules shall
18 comply with the amateur rules for boxing as adopted by the
19 United States Amateur Boxing Authority; and for amateur
20 mixed martial artists and mixed martial arts matches or
21 exhibitions, the commission rules shall follow the current
22 rules for the International Sport Karate Association, the

23 World Kickboxing Association or the International Sport
24 Combat Federation at any given match or exhibition. For full
25 contact boxing and other boxing events that follow
26 nontraditional rules, rules guaranteeing the safety of the
27 participants and the fair and honest conducting of the matches
28 or exhibitions are authorized.

29 (c) The commission shall propose separate rules for
30 amateur boxers and amateur boxing, sparring matches and
31 exhibitions as follows:

32 Rules which comply with the requirements of the rules of
33 the current United States Amateur Boxing Authority to the
34 extent that any boxer complying with them will be eligible to
35 participate in any state, national or international boxing
36 match sanctioned by the current United States Amateur
37 Boxing Authority or the International Amateur Boxing
38 Association.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark P. Raymond
.....
Chairman Senate Committee

R. B. Hill
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark A. Bowen
.....
Clerk of the Senate

Robert D. Hession
.....
Clerk of the House of Delegates

Bill Pelt
.....
President of the Senate

Paul M. Stamper
.....
Speaker of the House of Delegates

The within *is approved* this the *2nd*
Day of *April*, 2015.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2015

Time 3:25