

1 §29-5A-12, §29-5A-13, §29-5A-14, §29-5A-15, §29-5A-16, §29-5A-17,
 2 §29-5A-18, §29-5A-19, §29-5A-20, §29-5A-21, §29-5A-22, §29-5A-23,
 3 §29-5A-24, §29-5A-25, §29-5A-25a, and §29-5A-26, of the Code of
 4 West Virginia, 1931, as amended, be repealed; that §5F-2-1 of said
 5 code be amended and reenacted; that §11B-1-2 of said code be
 6 amended and reenacted; that said code be amended by adding thereto
 7 a new article, designated §29-5-1, §29-5-2, §29-5-3, §29-5-4,
 8 §29-5-5, §29-5-6, §29-5-7, §29-5-8, §29-5-9, §29-5-10, §29-5-11,
 9 §29-5-12, §29-5-13, §29-5-14, §29-5-15, §29-5-16, §29-5-17 and
 10 §29-5-18; and that §29-22-5 of said code be amended and reenacted,
 11 all to read as follows:

12 **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE**

13 **GOVERNMENT.**

14 **ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

15 **§5F-2-1. Transfer and incorporation of agencies and boards;**
 16 **funds.**

17 (a) The following agencies and boards, including all of the
 18 allied, advisory, affiliated or related entities and funds
 19 associated with any agency or board, are incorporated in and
 20 administered as a part of the Department of Administration:

21 (1) Building Commission provided in article six, chapter five
 22 of this code;

23 (2) Public Employees Insurance Agency provided in article

1 sixteen, chapter five of this code;

2 (3) Governor's Mansion Advisory Committee provided in article
3 five, chapter five-a of this code;

4 (4) Commission on Uniform State Laws provided in article
5 one-a, chapter twenty-nine of this code;

6 (5) West Virginia Public Employees Grievance Board provided
7 in article three, chapter six-c of this code;

8 (6) Board of Risk and Insurance Management provided in
9 article twelve, chapter twenty-nine of this code;

10 (7) Boundary Commission provided in article twenty-three,
11 chapter twenty-nine of this code;

12 (8) Public Defender Services provided in article twenty-one,
13 chapter twenty-nine of this code;

14 (9) Division of Personnel provided in article six, chapter
15 twenty-nine of this code;

16 (10) The West Virginia Ethics Commission provided in article
17 two, chapter six-b of this code;

18 (11) Consolidated Public Retirement Board provided in article
19 ten-d, chapter five of this code; and

20 (12) Real Estate Division provided in article ten, chapter
21 five-a of this code.

22 (b) The following agencies and boards, including all of the
23 allied, advisory, affiliated or related entities and funds
24 associated with any agency or board, are incorporated in and

1 administered as a part of the Department of Commerce:

2 (1) Division of Labor provided in article one, chapter
3 twenty-one of this code, which includes:

4 (A) Occupational Safety and Health Review Commission provided
5 in article three-a, chapter twenty-one of this code; and

6 (B) Board of Manufactured Housing Construction and Safety
7 provided in article nine, chapter twenty-one of this code;

8 (2) Office of Miners' Health, Safety and Training provided in
9 article one, chapter twenty-two-a of this code. The following
10 boards are transferred to the Office of Miners' Health, Safety and
11 Training for purposes of administrative support and liaison with
12 the office of the Governor:

13 (A) Board of Coal Mine Health and Safety and Coal Mine Safety
14 and Technical Review Committee provided in article six, chapter
15 twenty-two-a of this code;

16 (B) Board of Miner Training, Education and Certification
17 provided in article seven, chapter twenty-two-a of this code; and

18 (C) Mine Inspectors' Examining Board provided in article
19 nine, chapter twenty-two-a of this code;

20 (3) The West Virginia Development Office, which includes the
21 Division of Tourism and the Tourism Commission provided in article
22 two, chapter five-b of this code;

23 (4) Division of Natural Resources and Natural Resources
24 Commission provided in article one, chapter twenty of this code;

1 (5) Division of Forestry provided in article one-a, chapter
2 nineteen of this code;

3 (6) Geological and Economic Survey provided in article two,
4 chapter twenty-nine of this code; and

5 (7) Workforce West Virginia provided in chapter twenty-one-a
6 of this code, which includes:

7 (A) Division of Unemployment Compensation;

8 (B) Division of Employment Services;

9 (C) Division of Workforce Development; and

10 (D) Division of Research, Information and Analysis; and

11 (8) Division of Energy provided in article two-f, chapter
12 five-b of this code.

13 (c) The Economic Development Authority provided in article
14 fifteen, chapter thirty-one of this code is continued as an
15 independent agency within the executive branch.

16 (d) The Water Development Authority and Board provided in
17 article one, chapter twenty-two-c of this code is continued as an
18 independent agency within the executive branch.

19 (e) The following agencies and boards, including all of the
20 allied, advisory and affiliated entities, are transferred to the
21 Department of Environmental Protection for purposes of
22 administrative support and liaison with the office of the
23 Governor:

24 (1) Air Quality Board provided in article two, chapter

1 twenty-two-b of this code;

2 (2) Solid Waste Management Board provided in article three,
3 chapter twenty-two-c of this code;

4 (3) Environmental Quality Board, or its successor board,
5 provided in article three, chapter twenty-two-b of this code;

6 (4) Surface Mine Board provided in article four, chapter
7 twenty-two-b of this code;

8 (5) Oil and Gas Inspectors' Examining Board provided in
9 article seven, chapter twenty-two-c of this code;

10 (6) Shallow Gas Well Review Board provided in article eight,
11 chapter twenty-two-c of this code; and

12 (7) Oil and Gas Conservation Commission provided in article
13 nine, chapter twenty-two-c of this code.

14 (f) The following agencies and boards, including all of the
15 allied, advisory, affiliated or related entities and funds
16 associated with any agency or board, are incorporated in and
17 administered as a part of the Department of Education and the
18 Arts:

19 (1) Library Commission provided in article one, chapter ten
20 of this code;

21 (2) Educational Broadcasting Authority provided in article
22 five, chapter ten of this code;

23 (3) Division of Culture and History provided in article one,
24 chapter twenty-nine of this code;

1 (4) Division of Rehabilitation Services provided in section
2 two, article ten-a, chapter eighteen of this code.

3 (g) The following agencies and boards, including all of the
4 allied, advisory, affiliated or related entities and funds
5 associated with any agency or board, are incorporated in and
6 administered as a part of the Department of Health and Human
7 Resources:

8 (1) Human Rights Commission provided in article eleven,
9 chapter five of this code;

10 (2) Division of Human Services provided in article two,
11 chapter nine of this code;

12 (3) Bureau for Public Health provided in article one, chapter
13 sixteen of this code;

14 (4) Office of Emergency Medical Services and Advisory Council
15 provided in article four-c, chapter sixteen of this code;

16 (5) Health Care Authority provided in article twenty-nine-b,
17 chapter sixteen of this code;

18 (6) Commission on Mental Retardation provided in article
19 fifteen, chapter twenty-nine of this code;

20 (7) Women's Commission provided in article twenty, chapter
21 twenty-nine of this code; and

22 (8) The Child Support Enforcement Division provided in
23 chapter forty-eight of this code.

24 (h) The following agencies and boards, including all of the

1 allied, advisory, affiliated or related entities and funds
2 associated with any agency or board, are incorporated in and
3 administered as a part of the Department of Military Affairs and
4 Public Safety:

5 (1) Adjutant General's Department provided in article one-a,
6 chapter fifteen of this code;

7 (2) Armory Board provided in article six, chapter fifteen of
8 this code;

9 (3) Military Awards Board provided in article one-g, chapter
10 fifteen of this code;

11 (4) West Virginia State Police provided in article two,
12 chapter fifteen of this code;

13 (5) Division of Homeland Security and Emergency Management
14 and Disaster Recovery Board provided in article five, chapter
15 fifteen of this code and Emergency Response Commission provided in
16 article five-a of said chapter;

17 (6) Sheriffs' Bureau provided in article eight, chapter
18 fifteen of this code;

19 (7) Division of Justice and Community Services provided in
20 article nine a, chapter fifteen of this code;

21 (8) Division of Corrections provided in chapter twenty-five
22 of this code;

23 (9) Fire Commission provided in article three, chapter
24 twenty-nine of this code;

1 (10) Regional Jail and Correctional Facility Authority
2 provided in article twenty, chapter thirty-one of this code;

3 (11) Board of Probation and Parole provided in article
4 twelve, chapter sixty-two of this code; and

5 (12) Division of Veterans' Affairs and Veterans' Council
6 provided in article one, chapter nine-a of this code.

7 (i) The following agencies and boards, including all of the
8 allied, advisory, affiliated or related entities and funds
9 associated with any agency or board, are incorporated in and
10 administered as a part of the Department of Revenue:

11 (1) Tax Division provided in article one, chapter eleven of
12 this code;

13 (2) Racing Commission provided in article twenty-three,
14 chapter nineteen of this code;

15 (3) Lottery Commission and position of Lottery Director
16 provided in article twenty-two, chapter twenty-nine of this code;

17 (4) Agency of Insurance Commissioner provided in article two,
18 chapter thirty-three of this code;

19 (5) Office of Alcohol Beverage Control Commissioner provided
20 in article sixteen, chapter eleven of this code and article two,
21 chapter sixty of this code;

22 (6) Board of Banking and Financial Institutions provided in
23 article three, chapter thirty-one-a of this code;

24 (7) Lending and Credit Rate Board provided in chapter

1 forty-seven-a of this code;

2 (8) Division of Banking provided in article two, chapter
3 thirty-one-a of this code;

4 (9) The State Budget Office provided in article two of this
5 chapter;

6 (10) The Municipal Bond Commission provided in article three,
7 chapter thirteen of this code;

8 (11) The Office of Tax Appeals provided in article ten-a,
9 chapter eleven of this code; and

10 (12) The State Athletic Commission provided in article ~~five-a~~
11 five, chapter twenty-nine of this code.

12 (j) The following agencies and boards, including all of the
13 allied, advisory, affiliated or related entities and funds
14 associated with any agency or board, are incorporated in and
15 administered as a part of the Department of Transportation:

16 (1) Division of Highways provided in article two-a, chapter
17 seventeen of this code;

18 (2) Parkways, Economic Development and Tourism Authority
19 provided in article sixteen-a, chapter seventeen of this code;

20 (3) Division of Motor Vehicles provided in article two,
21 chapter seventeen-a of this code;

22 (4) Driver's Licensing Advisory Board provided in article
23 two, chapter seventeen-b of this code;

24 (5) Aeronautics Commission provided in article two-a, chapter

1 twenty-nine of this code;

2 (6) State Rail Authority provided in article eighteen,
3 chapter twenty-nine of this code; and

4 (7) Port Authority provided in article sixteen-b, chapter
5 seventeen of this code.

6 (k) Except for powers, authority and duties that have been
7 delegated to the secretaries of the departments by the provisions
8 of section two of this article, the position of administrator and
9 the powers, authority and duties of each administrator and agency
10 are not affected by the enactment of this chapter.

11 (l) Except for powers, authority and duties that have been
12 delegated to the secretaries of the departments by the provisions
13 of section two of this article, the existence, powers, authority
14 and duties of boards and the membership, terms and qualifications
15 of members of the boards are not affected by the enactment of this
16 chapter. All boards that are appellate bodies or are independent
17 decision makers shall not have their appellate or independent
18 decision-making status affected by the enactment of this chapter.

19 (m) Any department previously transferred to and incorporated
20 in a department by prior enactment of this section means a
21 division of the appropriate department. Wherever reference is
22 made to any department transferred to and incorporated in a
23 department created in section two, article one of this chapter,
24 the reference means a division of the appropriate department and

1 any reference to a division of a department so transferred and
2 incorporated means a section of the appropriate division of the
3 department.

4 (n) When an agency, board or commission is transferred under
5 a bureau or agency other than a department headed by a secretary
6 pursuant to this section, that transfer is solely for purposes of
7 administrative support and liaison with the Office of the
8 Governor, a department secretary or a bureau. Nothing in this
9 section extends the powers of department secretaries under section
10 two of this article to any person other than a department
11 secretary and nothing limits or abridges the statutory powers and
12 duties of statutory commissioners or officers pursuant to this
13 code.

14 **CHAPTER 11B. DEPARTMENT OF REVENUE.**

15 **ARTICLE 1. DEPARTMENT OF REVENUE.**

16 **§11B-1-2. Agencies, boards, commissions, divisions and offices**
17 **comprising the Department of Finance and Revenue.**

18 (a) There shall be in the Department of Revenue the following
19 agencies, boards, commissions, divisions and offices, including
20 all of the allied, advisory, affiliated or related entities which
21 are incorporated in and shall be administered as part of the
22 Department of Revenue:

23 (1) The Alcohol Beverage Control Commissioner provided for in

1 article sixteen, chapter eleven of this code and article one,
2 chapter sixty of this code;

3 (2) The Division of Banking provided for in article two,
4 chapter thirty-one-a of this code;

5 (3) The Board of Banking and Financial Institutions provided
6 for in article three, chapter thirty-one-a of this code;

7 (4) The State Budget Office ~~heretofore known as the budget~~
8 ~~section of the Finance Division, Department of Administration,~~
9 ~~previously provided for in article two, chapter five-a of this~~
10 ~~code and now~~ provided for in article two of this chapter;

11 (5) The agency of Insurance Commissioner provided for in
12 article two, chapter thirty-three of this code;

13 (6) The Lending and Credit Rate Board provided for in chapter
14 forty-seven-a of this code;

15 (7) The Lottery Commission and the position of Lottery
16 Director provided for in article twenty-two, chapter twenty-nine
17 of this code;

18 (8) The Municipal Bond Commission provided for in article
19 three, chapter thirteen of this code;

20 (9) The Office of Tax Appeals provided for in article ten-a,
21 chapter eleven of this code;

22 (10) The State Athletic Commission provided for in article
23 ~~five-a, five~~, chapter twenty-nine of this code;

24 (11) The Tax Division provided for in article one, chapter

1 eleven of this code; and

2 (12) The West Virginia Racing Commission provided for in
3 article twenty-three, chapter nineteen of this code.

4 (b) The department shall also include any other agency,
5 board, commission, division, office or unit subsequently
6 incorporated in the department by the Legislature.

7 **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

8 **ARTICLE 5. STATE ATHLETIC COMMISSION.**

9 **§29-5-1. Commission to have sole control of boxing,**
10 **semiprofessional boxing and mixed marital arts.**

11 (a) No person may promote a contest unless the person is
12 licensed under this article and secures a permit to conduct the
13 contest.

14 (b) No person may participate in a contest as an official or
15 contestant, unless the person is licensed under this article.

16 **§29-5-2. Definitions.**

17 As used in this article:

18 (a) "Amateur" means a contestant who does not compete for a
19 prize, in cash or otherwise.

20 (b) "Boxing" means a contest between contestants who fight
21 with their fists protected by gloves or mittens fashioned of
22 leather or similar material, the duration of which is limited to
23 a stated number of rounds separated by rest periods of equal

1 duration. "Boxing" includes kickboxing.

2 (c) "Business entity" means any firm, partnership,
3 association, club, company, corporation, limited partnership,
4 limited liability company or other entity.

5 (d) "Contest" means any public or private competition or
6 exhibition that involves boxing or tough man.

7 (e) "Contestant" means a person participating in a contest or
8 exhibition including a manager, trainer, or second of a
9 contestant.

10 (f) "Official" means referee, judge, matchmaker, timekeeper
11 licensed under this article.

12 (g) "Professional" means an individual licensed by the
13 commission who competes for or has competed for a money prize,
14 purse or compensation in a contest.

15 (h) "Promote" means to conduct or hold a contest;

16 (i) "Semi-Professional" means a contest that involves
17 physical contact between two individuals who attempt to out point
18 the opponent by using boxing techniques and tactics.

19 **§29-5-3. State Athletic Commission.**

20 (a) The West Virginia Athletic Commission is terminated June
21 30, 2011 and is reconstituted on July 1, 2011. The commission
22 consists of the five members appointed by the Governor, by and
23 with the advice and consent of the Senate:

24 (1) Two members who have experience in contests regulated by

1 the board;

2 (2) One member who is a licensed allopathic or osteopathic
3 physician; and,

4 (3) Two citizen members, who are not licensed under the
5 provisions of this article and who do not perform any services
6 related to the persons regulated under this article.

7 (b) Each member of the commission must be a resident of this
8 state during the appointment term.

9 (c) No person may be appointed to the commission or be an
10 employee of the commission who is regulated by the commission. No
11 member may have any legal or beneficial interest, direct or
12 indirect, pecuniary or otherwise, in any person who is regulated
13 by the commission or who participates in a contest.

14 (d) No member may participate in any contest other than in
15 the member's official capacity as a member of the commission;

16 (e) A member may not serve more than two consecutive full
17 terms. A member may continue to serve until a successor has been
18 appointed and has qualified.

19 (f) A vacancy on the commission shall be filled by
20 appointment by the Governor for the unexpired term of the member
21 whose office is vacant and the appointment shall be made within
22 sixty days of the vacancy.

23 (g) The Governor may remove any member from the commission
24 for neglect of duty, incompetency or official misconduct.

1 (h) A member of the commission immediately and automatically
2 forfeits membership to the commission if he or she is convicted of
3 a felony under the laws of any jurisdiction, or becomes a
4 nonresident of this state.

5 (i) The commission shall elect annually one of its members as
6 chairperson who serves at the will of the commission.

7 (j) Each member of the commission is entitled to compensation
8 and expense reimbursement in accordance with article one, chapter
9 thirty.

10 (k) A majority of the members of the commission constitutes
11 a quorum.

12 (l) The commission shall hold at least two annual meetings.
13 Other meetings may be held at the call of the chairperson or upon
14 the written request of two members, at the time and place as
15 designated in the call or request.

16 (m) Prior to commencing his or her duties as a member of the
17 commission, each member shall take and subscribe to the oath
18 required by section five, article four of the Constitution of this
19 state.

20 **§29-5-4. Powers and duties of the commission.**

21 (a) The commission has all the powers and duties set forth in
22 this article, by rule, and elsewhere in law.

23 (b) The commission shall:

24 (1) Have control over professional boxing contests;

- 1 (2) Have control over semiprofessional boxing;
2 (3) Hold meetings;
3 (4) Establish requirements for licenses;
4 (5) Establish procedures for submitting, approving and
5 rejecting applications for licenses and permits;
6 (6) Determine the qualifications of any applicant for
7 licenses and permits;
8 (7) Hire, discharge, establish the job requirements and fix
9 the compensation of the executive director;
10 (8) Maintain an office, hire, discharge, establish the job
11 requirements and fix the compensation of employees, investigators
12 and contracted employees necessary to enforce the provisions of
13 this article;
14 (9) Investigate alleged violations of the provisions of this
15 article, legislative rules, orders and final decisions of the
16 commission;
17 (10) Establish the criteria for the training of
18 investigators;
19 (11) Set the requirements for investigations;
20 (12) Conduct disciplinary hearings of persons regulated by
21 the commission;
22 (13) Determine disciplinary action and issue orders;
23 (14) Institute appropriate legal action for the enforcement
24 of the provisions of this article;

1 (15) Maintain an accurate registry of names and addresses of
2 all licensees;

3 (16) Keep accurate and complete records of its proceedings,
4 and certify the same as may be necessary and appropriate;

5 (17) Issue, renew, combine, deny, suspend, revoke or
6 reinstate licenses and permits;

7 (18) Establish a fee schedule;

8 (19) Have access to the financial records of licensees and
9 permittees;

10 (20) Propose rules in accordance with the provisions of
11 article three, chapter twenty-nine-a of this code to implement the
12 provisions of this article; and

13 (21) Take all other actions necessary and proper to
14 effectuate the purposes of this article.

15 (c) The commission may:

16 (1) Sue and be sued in its official name as an agency of this
17 state; and,

18 (2) Confer with the Attorney General or his or her assistant
19 in connection with legal matters and questions.

20 **§29-5-5. Rulemaking.**

21 (a) The commission shall propose rules for legislative
22 approval, in accordance with the provisions of article three,
23 chapter twenty-nine-a of this code, to implement the provisions of
24 this article, including:

- 1 (1) Standards and requirements for licenses and permits;
2 (2) Adoption of the unified rules of boxing;
3 (3) Adoption of rules governing semiprofessional boxing
4 contests;
5 (4) Procedures for the issuance and renewal of licenses and
6 permits;
7 (5) A fee schedule;
8 (6) Increase of the surety bond or required insurance above
9 the statutory minimum;
10 (7) The procedures for denying, suspending, revoking,
11 reinstating or limiting the practice of licensees and permittees;
12 (8) Requirements for investigations;
13 (9) Requirements for the reinstatement of revoked licenses or
14 permits; and
15 (10) Any other rules necessary to effectuate the provisions
16 of this article.

17 (b) All of the commission's rules in effect on July 1, 2011,
18 shall remain in effect until they are amended or repealed, and
19 references to provisions of former enactments of this article are
20 interpreted to mean provisions of this article.

21 **§29-5-6. Fees; special revenue account; administrative fines.**

22 (a) All fees and other moneys, except administrative fines,
23 received by the commission shall be deposited in a separate
24 special revenue fund in the State Treasury designated the "West

1 Virginia State Athletic Commission", which is continued. The fund
2 is used by the commission for the administration of this article.
3 Except as may be provided in article one of this chapter, the
4 commission retains the amount in the special revenue account from
5 year to year. No compensation or expense incurred under this
6 article is a charge against the General Revenue Fund.

7 (b) Any amount received as fines, imposed pursuant to this
8 article, shall be deposited into the General Revenue Fund of the
9 State Treasury.

10 **§29-5-7. Promoter's license requirements.**

11 (a) To be eligible for a license to promote a contest the
12 applicant must:

13 (1)Apply to the commission on a form prescribed by the
14 commission;

15 (2) Be of good moral character;

16 (3) Conduct his or her business in the best interest and
17 welfare of the public and preserving the safety and health of
18 participants;

19 (4) Pay the prescribed fee; and

20 (5) Adhere to and comply with the rules of the commission.

21 (b) In the case of a corporate applicant, these factors shall
22 pertain to its officers, directors, principal stockholders and
23 employees.

24 (c) The inspector and other officials designated by the

1 commission to be in charge of a contest shall be paid by the
2 promoter for each weigh-in ceremony and for each day of the
3 contest.

4 (d) A promoter shall after the determination of a contest,
5 furnish to the commission a written report detailing the number of
6 tickets sold, the amount of the gross proceeds and other matters
7 as the commission may prescribe.

8 (e) A promoter shall execute and file with the commission a
9 surety bond in an amount not less than \$100,000.

10 (f) A license issued pursuant to this section shall bear the
11 name of the licensee, the address of the licensee, the date of
12 expiration, and an identification number designated by the
13 commission.

14 (g) A promoter's license expires twelve months after its
15 date of issuance and becomes invalid on that date unless renewed.
16 A promoter's license may be renewed upon application to the
17 commission and upon payment of the renewal fee.

18 (h) A licensee shall insure each contestant in a contest for
19 hospital, nursing, and medication expenses and for physicians' and
20 surgeons' services. The amount of the insurance may not be less
21 than \$20,000 and shall be paid to or for the use of a contestant
22 for any injuries sustained in a contest.

23 (i) A licensee shall provide life insurance to each
24 contestant. The amount of life insurance may not be less than

1 \$20,000 and it shall be paid to the contestant's estate if the
2 contestant dies as the result of participation in the contest.

3 **§29-5-8. Contestant license requirements.**

4 (a) To be eligible for a license to be a contestant in a
5 boxing or tough man contest , the applicant must:

6 (1)Apply to the commission on a form prescribed by the
7 commission.

8 (2) Be physically fit and mentally sound;

9 (3) Pay the prescribed fee;

10 (4) Provide two recent photos, passport size;

11 (5) Adhere to and comply with the rules of the commission;

12 (6) Have passed a physical by a licensed physician the day of
13 the scheduled contest;

14 (7) Present documentary evidence, satisfactory to the
15 commission, that:

16 (A) Within the one year, before a contest, the applicant has
17 been tested for the presence of:

18 (1) Antibodies to the human immunodeficiency virus (HIV);

19 (2) The antigen of virus hepatitis B;

20 (3) Antibodies to virus hepatitis C; and,

21 (4) A pregnancy test, if applicable;

22 (B) The results of all tests are negative; and

23 (C) Report the results of the examination to the commission.

24 (D) All contestant must sign medical information release form

1 to permit the commission to review the contestant's medical
2 information.

3 **§29-5-9. Semi-professional contestant license requirements.**

4 To be eligible for a license to be a semiprofessional
5 contestant, the applicant must:

6 (1) Apply to the commission on a form prescribed by the
7 commission.

8 (2) Be physically fit and mentally sound;

9 (3) Pay the prescribed fee;

10 (4) Adhere to and comply with the rules of the commission;

11 and

12 (5) Have passed a physical by a licensed physician the day of
13 the scheduled contest.

14 **§29-5-10. Officials license requirements.**

15 (a) To be eligible for a license to be an official, the
16 applicant must:

17 (1) Apply to the commission on a form prescribed by the
18 commission.

19 (2) Be of good moral character;

20 (3) Be physically fit and mentally sound;

21 (4) Pay the prescribed fee;

22 (5) Adhere to and comply with the rules of the commission;

23 (6) Be not likely to engage in acts detrimental to the fair
24 and honest conduct of contests;

1 (7) Be qualified to hold a license by reason of the
2 applicant's knowledge and experience; and,

3 (8) Any other requirements the commission prescribes.

4 (b) The chief official of the contest is the chief deputy.

5 The referee is the chief official of the bout. The referee shall
6 have general supervision and control over the contest and shall be
7 paid by the promoter.

8 (c) The officials shall be appointed by the commission, and
9 shall receive from the commission a card authorizing them to act
10 as such.

11 **§29-5-11. Permit requirements.**

12 (a) To be eligible for a permit to conduct a contest an
13 applicant must:

14 (1) Be licensed under section seven of this article;

15 (2) Apply to the commission on a form prescribed by the
16 commission. The form shall require the following information:

17 (A) The date and starting time of the contest;

18 (B) The address of the place where the contest is to be held;

19 (C) The names of the contestants;

20 (D) The seating capacity of the building where the contest is
21 to be held;

22 (E) The admission charge or any other charges;

23 (3) Provide the a copy of the contracts the promoter and the
24 contestants have signed;

1 (4) Provide the name and address of the applicant; and,

2 (5) Pay the applicable fee.

3 (b) The commission shall determine if the contestants are
4 evenly and fairly matched according to skill, experience, and
5 weight so as to produce a fair and sportsmanlike contest.

6 (c) Each permit issued pursuant to this section shall bear
7 the name and address of the applicant, the address of the place
8 where the contest is to be held, and the date and starting time of
9 the contest.

10 (d) The permit allows the holder to conduct only the contest
11 named in the permit. A permit is not transferable.

12 **§29-5-12. Amateur boxing.**

13 Amateur boxing shall be governed by United States Boxing
14 Association.

15 **§29-5-13. Deputy chief and inspectors at contests.**

16 (a) The commission shall employ a deputy chief and inspectors
17 to attend each contest held under a permit.

18 (b) At least one deputy chief and at least two inspectors
19 shall be assigned to a facility for a contest.

20 (c) The compensation of the deputy chief and the inspectors
21 for attending a contest, shall be charged and paid by the permittee
22 at whose facility the inspector serves.

23 (d) The inspectors shall report any violations of this
24 article and legislative rules to the chief deputy.

1 allegations against any person regulated by the article.

2 (f) Any member of the commission or its executive director
3 may sign a consent decree or other legal document on behalf of the
4 commission.

5 (g) The commission may, after notice and opportunity for
6 hearing, deny or refuse to renew, suspend or revoke the license or
7 permit of, impose probationary conditions upon or take
8 disciplinary action against, any licensee or permittee for any of
9 the following reasons once a violation has been proven by a
10 preponderance of the evidence:

11 (1) Obtaining a license or permit by fraud, misrepresentation
12 or concealment of material facts;

13 (2) Being convicted of a felony or other crime involving
14 moral turpitude;

15 (3) Being guilty of unprofessional conduct which placed the
16 public at risk, as defined by legislative rule of the commission;

17 (4) Intentionally violating of a lawful order or legislative
18 rule of the commission;

19 (5) Having had an authorization revoked, suspended, other
20 disciplinary action taken, by the proper authorities of another
21 jurisdiction;

22 (6) Having had an application denied by the proper
23 authorities of another jurisdiction;

24 (7) Aiding or abetting unlicensed practice;

1 (8) Engaging in an act while acting in a professional
2 capacity which has endangered or is likely to endanger the health,
3 welfare or safety of the public; or

4 (9) Being an habitual drunkard or addicted to the use of a
5 controlled substance;

6 (10) Being or becoming mentally incompetent;

7 (11) Failing to maintain in force the bond required by this
8 chapter;

9 (12) Having by act or omission conducted himself in a manner
10 which would tend to be detrimental to the best interests of
11 boxing, and semi professional boxing generally, or to the public
12 interest and general welfare;

13 (13) Having failed to pay a fine or forfeiture imposed by
14 this chapter;

15 (14) Knowingly permitted a person less than eighteen years of
16 age to participate in a public boxing or wrestling contest;

17 (15) Knowingly permitted gambling, betting, or wagering on
18 the result of a contingency in connection with a contest;or

19 (16) Knowingly conducted or allowed to be conducted a sham or
20 fake contest;

21 (h) For the purposes of subsection (g) of this section
22 disciplinary action may include:

23 (1) Reprimand;

24 (2) Probation;

1 (3) Administrative fine, not to exceed \$1,000 per day per
2 violation;

3 (4) Practicing under supervision or other restriction;

4 (5) Requiring the licensee to report to the commission for
5 periodic interviews for a specified period of time; or

6 (6) Other corrective action considered by the commission to
7 be necessary to protect the public.

8 **§29-5-15. Procedures for hearing; right of appeal.**

9 (a) Hearings shall be governed by the provisions of section
10 eight, article one of this chapter.

11 (b) The commission may conduct the hearing or elect to have
12 an administrative law judge conduct the hearing.

13 (c) If the hearing is conducted by an administrative law
14 judge, at the conclusion of a hearing he or she shall prepare a
15 proposed written order containing findings of fact and conclusions
16 of law. The proposed order may contain proposed disciplinary
17 actions if the commission so directs. The commission may accept,
18 reject or modify the decision of the administrative law judge.

19 (d) Any member or the executive director of the commission
20 has the authority to administer oaths, examine any person under
21 oath and issue subpoenas and subpoenas duces tecum.

22 (e) If, after a hearing, the commission determines the
23 licensee or permittee has violated subsection (g) of this section
24 or the commission's rules, a formal written decision shall be

1 prepared which contains findings of fact, conclusions of law and
2 a specific description of the disciplinary actions imposed.

3 **§29-5-16. Judicial review.**

4 Any licensee or permittee adversely affected by a decision of
5 the commission entered after a hearing may obtain judicial review
6 of the decision in accordance with section four, article five,
7 chapter twenty-nine-a of this code, and may appeal any ruling
8 resulting from judicial review in accordance with article six,
9 chapter twenty-nine-a of this code.

10 **§29-5-17. Injunctive relief for violation of chapter.**

11 In the event of violation of any provision of this chapter,
12 in addition to any other remedy, the commission may apply to any
13 court of record in the State of West Virginia for relief without
14 being compelled to allege or prove that any adequate remedy at law
15 does not exist.

16 **§29-5-18. Criminal proceedings; penalties.**

17 (a) When, as a result of an investigation under this article
18 or otherwise, the commission has reason to believe that a licensee
19 or permittee has committed a criminal offense under this article,
20 the commission may bring its information to the attention of an
21 appropriate law-enforcement official.

22 (b) A person violating a provision of this article is guilty
23 of a misdemeanor and, upon conviction thereof, shall be fined not
24 less than \$1,000 nor more than \$10,000 or confined in jail not

1 more than six months, or both fined and confined.

2 **ARTICLE 22. STATE LOTTERY ACT.**

3 **§29-22-5. State Lottery Commission; powers and duties;**
4 **cooperation of other agencies.**

5 (a) The commission has the authority to:

6 (1) Promulgate rules in accordance with chapter twenty-nine-a
7 of this code: *Provided*, That those rules promulgated by the
8 commission that are necessary to begin the lottery games selected
9 shall be exempted from the provisions of chapter twenty-nine-a of
10 this code in order that the selected games may commence as soon as
11 possible;

12 (2) Establish rules for conducting lottery games, a manner of
13 selecting the winning tickets and manner of payment of prizes to
14 the holders of winning tickets;

15 (3) Select the type and number of public gaming systems or
16 games, to be played in accordance with the provisions of this
17 article;

18 (4) Contract, if deemed desirable, with the educational
19 broadcasting authority to provide services through its microwave
20 interconnection system to make available to public broadcasting
21 stations servicing this state and, at no charge, for rebroadcast
22 to commercial broadcasting stations within this state, any public
23 gaming system or games drawing;

1 (5) Enter into interstate and international lottery
2 agreements with other states or foreign countries, or any
3 combination of one or more states and one or more foreign
4 countries;

5 (6) Adopt an official seal;

6 (7) Maintain a principal office and, if necessary, regional
7 suboffices at locations properly designated or provided;

8 (8) Prescribe a schedule of fees and charges;

9 (9) Sue and be sued;

10 (10) Lease, rent, acquire, purchase, own, hold, construct,
11 equip, maintain, operate, sell, encumber and assign rights of any
12 property, real or personal, consistent with the objectives of the
13 commission as set forth in this article;

14 (11) Designate one of the deputy directors to serve as acting
15 director during the absence of the director;

16 (12) Hold hearings on any matter of concern to the commission
17 relating to the lottery, subpoena witnesses, administer oaths,
18 take testimony, require the production of evidence and documentary
19 evidence and designate hearing examiners and employees to so act;
20 and

21 (13) To make and enter into all agreements and do all acts
22 necessary or incidental to the performance of its duties and the
23 exercise of its powers under this article.

24 (14) Provide administrative support and office space to the

1 State Athletic Commission.

2 (b) Departments, boards, commissions or other agencies of this
3 state shall provide assistance to the state lottery office upon the
4 request of the director.

5 (c) Upon the request of the deputy director for the security
6 and licensing division in conjunction with the director, the
7 Attorney General, Department of Public Safety and all other
8 law-enforcement agencies shall furnish to the director and the
9 deputy director such information as may tend to assure the security,
10 honesty, fairness and integrity in the operation and administration
11 of the lottery as they may have in their possession, including, but
12 not limited to, manual or computerized information and data. The
13 director is to designate such employees of the security and
14 licensing division as may be necessary to act as enforcement agents.
15 Such agents are authorized to investigate complaints made to the
16 commission or the State Lottery Office concerning possible violation
17 of the provisions of this article and determine whether to recommend
18 criminal prosecution. If it is determined that action is necessary,
19 an agent, after approval of the director, is to make such
20 recommendation to the prosecuting attorney in the county wherein the
21 violation occurred or to any appropriate law-enforcement agency.

NOTE: The purpose of this bill is to update the authority and structure of the Athletic Commission. The Athletic Commission is moved under the Lottery Commission to assist in administrative functions.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§§29-5-1 through 29-5-18 are new; therefore, they have been completely underscored.