

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 436

(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:

1 That §29-5A-12 of the Code of West Virginia, 1931, as amended, be repealed; that §29-5A-1,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

5 **ARTICLE 5A. STATE ATHLETIC COMMISSION.**

6 **§29-5A-1. Creation of commission; members; officers; seal and rules.**

7 The State Boxing Commission, heretofore created, is hereby continued and renamed the State
8 Athletic Commission. The commission shall consist of five persons appointed by the Governor, by
9 and with the consent of the Senate, no more than three of whom shall belong to the same political
10 party and no two of whom shall be residents of the same county at the same time. One member shall
11 have at least three years of experience in the sport of boxing. One member shall have at least three
12 years of experience in the sport of mixed martial arts. One member shall have at least three years
13 of experience in the health care industry as a licensed physician, registered nurse, nurse practitioner
14 or physicians assistant. Two members shall be citizen members who are not licensed under the
15 provisions of this article and who do not perform any services related to the persons regulated under
16 this article. The members shall serve without pay. At the expiration of the term of each member,
17 his or her successor shall be appointed by the Governor for a term of four years. If there is a vacancy
18 in the board, the vacancy shall likewise be filled by appointment by the Governor and the Governor

1 shall likewise have the power to remove any commissioner at his or her pleasure. Any three
2 members of the commission shall constitute a quorum for the exercise of the power or authority
3 conferred upon it. The members of the commission shall at the first meeting after their appointment
4 elect one of their number chairman of the commission, and another of their number secretary of the
5 commission, shall adopt a seal for the commission, and shall make such rules for the administration
6 of their office, not inconsistent herewith, as they may consider expedient; and they may hereafter
7 amend or abrogate such rules. The concurrence of at least three commissioners is necessary to
8 render a choice or decision of the commission.

9 **§29-5A-1a. Commission office; administrative support provided by Lottery Commission.**

10 The office of the commission shall be located on the same premises as the office of the
11 Lottery Commission and the Lottery Commission shall provide the commission with any necessary
12 administrative support or management, including, but not limited to:

13 (1) Administrative recordkeeping;

14 (2) Maintaining an accurate and published registry of names, addresses and relevant
15 information of all licensees; and

16 (3) Management of finances and budgetary oversight.

17 **§29-5A-2. Powers and duties of secretary; penalty for false swearing, etc.; biennial reports of**
18 **commission.**

19 It shall be the duty of the secretary to keep a full and true record of all proceedings of said
20 commission, to preserve all its books, documents and papers, to prepare for service such notices and
21 other papers as may be required of him or her by the commission and to perform such other duties
22 as the commission may prescribe; and he or she may at the direction of the commission issue

subpoenas for the attendance of witnesses before the commission with the same effect as if they were issued in an action in any circuit court of the state and may administer oaths in all matters pertaining to the duties of his or her office or connected with the administration of the affairs of the commission. The subpoenas shall be on forms prescribed by the commission and served by the sheriff's department of the county in which the individual being subpoenaed resides. Such subpoenas shall be signed by at least two members. Disobedience of such subpoena and false swearing before such secretary shall be attended by the same consequences and be subject to the same penalties as if such disobedience or false swearing occurred in an action in any circuit court of the state. The commission shall make to the Legislature biennial reports of their proceedings for the two years ending with the last day of the preceding December and may submit with such report such recommendations pertaining to its affairs, as to it shall seem advisable.

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

(a) The commission has sole direction, management and control of the jurisdiction over all amateur, professional and semiprofessional boxing, sparring matches and exhibitions, or any form thereof, to be conducted, held or given within the state by any club, individual, corporation or association. As used in this article, the term "boxing" includes any fighting event that includes or permits the striking of an opponent with a closed fist, even if wrestling moves, elements of martial arts or striking an opponent with the feet are also permitted. No boxing, sparring or exhibition may be conducted, held or given within the state except pursuant to the commission's authority and held in accordance with this article. The commission may issue and revoke the license to conduct, hold or give boxing or sparring matches or exhibitions to any club, corporation, association or individual.

1 Every license is subject to rules the commission may prescribe. Every application for a license shall
2 be on a blank form provided by the commission. No promoter's license may be granted to any club,
3 corporation, association or individual unless the signer of the application is a bona fide resident of
4 the state of West Virginia. Upon application of the promoter's license, the promoter shall pay a state
5 license fee of \$125 for one year. The fee is nonrefundable and shall be paid in the form of a certified
6 check or money order issued to the Treasurer of the state of West Virginia to be deposited in the fund
7 set forth in section three-b of this article. Nonprofit chartered and charitable organizations are
8 exempt from this license fee for all amateur events. No municipal corporation may impose any
9 license tax on boxing, sparring or exhibition clubs, notwithstanding the provisions of any section of
10 the code respecting municipal taxes and licenses. The granting of a license to a club by the
11 commission, or the holding of a license by a club, individual, corporation or association, does not
12 prevent the commission from canceling or revoking the license to conduct an event as provided in
13 this section.

14 (b) In exercising its jurisdiction over professional and semiprofessional boxing, sparring
15 matches and exhibitions, the commission shall follow the current unified rules of boxing adopted
16 by the Association of Boxing Commissions and requirements to enable the proper sanctioning of all
17 participants, referees, judges and matches or exhibitions conducted under the rules described in
18 subdivision (1), subsection (c), section twenty-four of this article and shall cooperate fully with the
19 Association of Boxing Commissions in order that the sanctioning be extended to state boxers. The
20 commission shall supervise all amateur boxing conducted in this state and any such contest shall
21 follow the amateur rules for boxing as adopted by the United States Amateur Boxing Authority. For
22 full contact boxing events and other boxing events that follow nontraditional rules, the commission

1 may impose any limitations or restrictions reasonably necessary to guarantee the safety of the
2 participants and the fair and honest conducting of the matches or exhibitions and may refuse to
3 license any event that poses an unreasonable degree of risk to the participants.

4 **§29-5A-3a. Power to regulate mixed martial arts.**

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

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

12 (c) A mixed martial arts contest, match or exhibition promoted, conducted, held or given
13 within the state shall be under the commission's authority and be in accordance with the provision
14 of this section. The provisions of this article that apply to boxing shall also apply to mixed martial
15 arts as appropriate.

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

22 (e) The commission may issue and revoke a license to promote, conduct, hold or give mixed

1 martial arts contests, matches or exhibitions and may issue and revoke a license to be a contestant.

2 Each license is subject to the provisions of this section and this article and the rules of the
3 commission.

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

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

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

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

11 (2) Exemptions from licensure;

12 (3) Procedures for revoking licenses;

13 (4) Adopting the unified rules of mixed martial arts;

14 (5) A fee schedule;

15 (6) Limitations or restrictions necessary to guarantee the safety of the participants;

16 (7) The requirements for fair and honest conducting of the contests, matches or exhibitions;

17 and

18 (8) Any other rules necessary to effectuate the provisions of this section.

19 (g) Notwithstanding the provisions of this code to the contrary, a municipality may not
20 impose a municipal license tax under section four, article thirteen, chapter eight of this code on
21 mixed martial arts clubs. The granting of a license to a club by the commission, or the holding of
22 a license by a club, individual, corporation or association, does not prevent the commission from

1 revoking the license to conduct an event as provided in this section: *Provided*, That nothing in this
2 subsection limits the authority of a municipality to impose any other taxes or fees on mixed martial
3 arts contests, matches or exhibitions pursuant to article thirteen, chapter eight of this code.

4 **§29-5A-3b. State Athletic Commission Fund.**

5 (a) All moneys collected shall be deposited in a special account in the State Treasury to be
6 known as the State Athletic Commission Fund. Expenditures from the fund shall be for the purposes
7 set forth in this article and are not authorized from collections but are to be made only in accordance
8 with appropriation by the Legislature and in accordance with the provisions of article three, chapter
9 twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this
10 code: *Provided*, That for the fiscal year ending June 30, 2016, expenditures are authorized from
11 collections rather than pursuant to appropriation by the Legislature.

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

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

21 **§29-5A-5. Expense of commission.**

22 On or before December 31 of each year, the secretary of the commission shall present to the

1 Governor projected expenses for the following year. Such projections shall include all expenses and
2 revenues of the commission and its official headquarters. Necessary expenses incurred by the
3 commission shall be submitted on a standard expense form to the Treasurer of the state of West
4 Virginia to be paid from the State Athletic Commission Fund except in such circumstances referred
5 to in subsection (b), section three-b of this article designating such expenses be paid from the
6 General Fund.

7 **§29-5A-6. Payment of official in charge.**

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

1 event for the proscribed fees. Deputies, inspectors, judges, referees, timekeepers or any other
2 officials designated by the commission to be in charge of an event shall not accept, other than the
3 fees proscribed herein, any gift, pass or other thing of value in connection with any event.

4 **§29-5A-8. Issuance of license; qualification for licenses; application of other provisions of**
5 **chapter; hearings.**

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

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

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

12 (b) Is of good moral character;

13 (c) Is physically fit and mentally sound;

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

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

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

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

1 **§29-5A-17. Referee and judges; appointment by commission; powers, payment.**

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

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

16 **§29-5A-19. Weight of contestants.**

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

21 **§29-5A-20. Licenses for contestants, referees and managers.**

22 No professional contestant, trainer, inspector, referee or professional manager may take part

1 in any boxing contest or exhibition unless holding a license from the state that is issued by the
2 commission upon payment of the following annual license fee schedule: Professional contestant
3 \$25; trainer \$20; inspector \$30; referee \$30 and professional manager \$50. Semiprofessional
4 contestants shall pay a license fee of \$10 for each event. Such fees shall accompany the application
5 and shall be in the form of a certified check or money order and shall be issued to the Treasurer of
6 the state of West Virginia to be deposited in the State Athletic Commission Fund. If a license is not
7 granted, the Treasurer shall refund the full amount.

8 **§29-5A-24. Rules governing contestants and matches.**

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

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

1 given match or exhibition. For full contact boxing and other boxing events that follow nontraditional
2 rules, rules guaranteeing the safety of the participants and the fair and honest conducting of the
3 matches or exhibitions are authorized.

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

6 Rules which comply with the requirements of the rules of the current United States Amateur
7 Boxing Authority to the extent that any boxer complying with them will be eligible to participate in
8 any state, national or international boxing match sanctioned by the current United States Amateur
9 Boxing Authority or the International Amateur Boxing Association.