

ARTICLE 5A. STATE ATHLETIC COMMISSION.

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

The state boxing commission, heretofore created, is hereby continued and renamed the state athletic commission. The commission shall consist of **five persons appointed by the** governor, by and with the consent of the Senate, no more than three 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. The members shall serve without pay. The present members and terms of the members of the state boxing commission shall continue as the state athletic commission. At the expiration of the term of each member, his or her successor shall be appointed by the governor for a **term of four** years.-In the event of a vacancy in said board, said vacancy shall likewise be filled by appointment by the governor and the governor shall likewise have the power to remove any commissioner at his or her pleasure. Any three members of the commission shall constitute a quorum for the exercise of the power or authority conferred upon it. The members of the commission shall at the first meeting after their appointment elect one of their number chairman of the commission, and another of their number secretary of the commission, shall adopt a seal for the commission, and shall make such rules for the administration of their office, not inconsistent herewith, as they may deem expedient; and they may hereafter amend or abrogate such rules. The concurrence of at least three commissioners shall be necessary to render a choice or decision of the commission.

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

The office of the commission may be changed at pleasure by the said commission. The commission may designate as its official headquarters the residence or place of business of any one of its members. It shall be the duty of the secretary to keep a full and true record of all proceedings of said commission, to preserve all its books, documents and papers, to prepare for service such notices and other papers as may be required of him by the commission, and to perform such other duties as the commission may prescribe; and he 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 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 sheriffs 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, in its discretion, issue and, at its pleasure, revoke the license to conduct, hold or give boxing or sparring matches or exhibitions to any club, corporation, association or individual. Every license is subject to rules the commission may prescribe. Every application for a license shall be on a blank form provided by the commission. No promoter's license may be granted to any club, corporation, association or individual, unless the signer of the application is a bona fide resident of the state of West Virginia. Upon application of the promoter's license, the promoter shall pay a state licensee fee of one hundred twenty-five dollars for one year. The fee shall be in the form of a certified check or money order and shall be issued to the treasurer of the state of West Virginia to be deposited in the general fund. If the license is not granted, the treasurer shall refund the full amount. Nonprofit chartered and charitable organizations are exempt from this license fee for all amateur events. No municipal corporation may impose any license tax on boxing, sparring or exhibition clubs, notwithstanding the provisions of any section of the code respecting municipal taxes and licenses. The granting of a license to a club by the commission, or the holding of a license by a club, individual, corporation or association, does not prevent the commission from canceling or revoking the license to conduct an event, as provided in this section.

(b) In exercising its jurisdiction over professional, semiprofessional and amateur boxing, sparring matches and exhibitions, the commission shall follow the current United States boxing authority rules and requirements to enable the proper sanctioning of all participants, referees, judges and matches or exhibitions conducted under the rules described in subdivision (1), subsection (c), section twenty-four of this article and shall cooperate fully with the boxing authority in order that the sanctioning be extended to state boxers. For full contact boxing events and other boxing events that follow nontraditional rules, the commission may impose any limitations or restrictions reasonably necessary to guarantee the safety of the participants and the fair and honest conducting of the matches or exhibitions and may refuse to license any event that poses an unreasonable degree of risk to the participants.

§29-5A-4. Licenses to **be in** lieu of all other licenses.

The licenses herein imposed shall be in lieu of all other licenses or license taxes of the state of West Virginia, and no county, city, town or other municipality or other political subdivision of the state of West Virginia shall be empowered to levy or impose any license or license tax on any such person engaged in the business of conducting boxing or sparring matches and exhibitions under the jurisdiction of and being licensed by the commission.

§29-5A-5. **Expense of commission.**

On or before December thirty-one of each year, the secretary of the commission shall present to the governor projected expenses for the following year. Such projections shall include all expenses of the commission and its official headquarters. Necessary expenses incurred by the commission shall be submitted on a standard expense form to the treasurer of the state of West Virginia to be paid from the general fund. Such expenses shall not exceed five thousand five hundred dollars per year.

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

The deputy, inspector or other officials designated by the commission to be in charge of a boxing event shall be paid by the promoter at a rate of seventy-five dollars for each weigh-in

ceremony and seventy-five dollars for each day of bouts. If a weigh-in occurs within three hours before the boxing bouts are scheduled to begin, the deputy, inspector or other officials will be paid only seventy-five dollars once for that particular night or day's events. Judges, timekeepers and inspectors shall be paid by the promoter at a rate of fifty dollars per day. Referees shall be paid by the promoter at a rate of seventy-five dollars per day.

§29-5A-7. Interference with or restraining of professional boxing or exhibitions.

No person or persons, club, organization or corporation shall, except in accordance with law, interfere with or restrain, or attempt to interfere with or restrain, by any act, threat or otherwise, either within or without this state, the putting on or the conducting of any professional boxing match or exhibition of this state.

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

The commission, at its discretion, may issue a license to promote, conduct or hold professional boxing, sparring matches and exhibitions to any person, corporation, association, club or organization eligible for a license under this chapter.

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

(a) Is skilled, or has knowledge, in the profession of boxing;

(b) Is of good moral character;

(c) Is physically fit and mentally sound;

(d) Will conduct his business in the best interest and welfare of the public, preserving the safety and health of participants and the best interests of professional boxing generally;

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

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

Every license and licensee shall be subject to such rules and regulations, and amendments thereof, as the commission may prescribe.

§29-5A-9. Sanction or permit from commission.

No boxing, sparring matches or exhibitions shall be conducted by any individual, club, organization or corporation having a license to conduct any such exhibitions in this state except by a sanction or permit from the commission.

§29-5A-10. Sanction of commission and reports, etc., for showing of telecasts of boxing, sparring, etc.

Every club, corporation or association holding, showing or exhibiting a simultaneous telecast of any live, current or spontaneous boxing, sparring or exhibition or performance on a closed circuit telecast or subscription television viewed within this state, whether originating in this state or another state, and for which an admission charge is made shall obtain a permit from the commission, and shall within twenty-four hours after the termination of such showing,

furnish the commission a written report, duly verified by one of its officers, showing the number of tickets sold for such showing and the amount of the gross proceeds thereof, and such other matters as the commission may prescribe.

§29-5A-11. Intoxicating liquor.

No intoxicating liquor shall be given away, sold or offered for sale in any building or part thereof, in which boxing or sparring exhibitions are being conducted.

§29-5A-12. Length of rounds; weight of gloves.

No boxing or sparring match or exhibition shall be more than fifteen rounds of three minute's each in length with intermission of one minute each between rounds; and the contestants shall wear, during such contests, gloves weighing at least ten ounces, unless the commission finds that for limited categories or classes of fights a lesser weight is sufficient for the protection of the participants and authorizes the lesser weight by legislative rule.

§29-5A-13. Cancellation of license for fake boxing, etc., exhibition; penalty for participating in such exhibition.

Any club, corporation, association or individual which may conduct, hold or give or participate in any sham or fake boxing, sparring or exhibition shall thereby forfeit its license issued in accordance with the provisions of this article, which shall thereupon be, by the commission, canceled and declared void; and it shall not be entitled to receive another such license or any license pursuant to the provisions of this article, nor shall any license thereafter be granted to any club, corporation, association or individual, including among its members, directors, partners or stockholders, any member, director, partner or stockholder of the club, corporation, association or individual whose license has been so forfeited. Any contestant who shall participate in any sham or fake boxing, sparring or exhibition, and any other person whatsoever who shall in any manner be connected with the arranging, planning, holding, conducting or giving of any such sham or fake boxing, sparring or exhibition shall be guilty of a misdemeanor, and, shall upon conviction thereof, be fined not less than five hundred dollars, nor more than one thousand dollars, or be confined in jail for a period of not less than six months, nor more than one year or both; and any *contestant* so participating shall be further totally disqualified from further admission or participation in any boxing or sparring held or given by any club, corporation, association or individual duly licensed for said purpose.

§29-5A-14. Suspension, revocation, etc., of license.

The commission shall have the additional authority and power to suspend, revoke or place on probation the license of any licensee licensed under this chapter, who in the discretion of the commission:

- (a) Is guilty of failure to obey any lawful order of the commission, the secretary or any inspector thereof;
- (b) Is guilty of gross immorality;
- (c) Is unfit or incompetent by reason of negligence;
- (d) Is guilty of violating any provision of this chapter or rules and regulations of the commission;
- (e) Has committed fraud or deceit in securing a license for himself or another;
- (f) Has been convicted of a felony or misdemeanor involving moral turpitude in any jurisdiction within one year preceding the suspension or revocation and such conviction not

previously reported to the commission by said licensee;

(g) Is an habitual drunkard or addicted to the use of narcotics;

(h) Is or has become mentally incompetent;

(i) Is or has been guilty of unprofessional or unethical conduct, or such conduct as to require a suspension or revocation of license in the interest of the public;

(j) Has failed to furnish the proper party a copy of any contract or statement required by this chapter or the rules and regulations promulgated hereunder, or has breached such a contract;

(k) Has loaned or permitted another person to use his license, or has borrowed or used the license of another;

(l) Has failed to maintain in force the bond required by this chapter;

(m) Has by act or omission conducted himself in a manner which would tend to be detrimental to the best interests of boxing generally, or to the public interest and general welfare;

(n) Has been disciplined in any manner by the boxing commission or similar agency or body of any jurisdiction;

(o) Has failed to pay a fine or forfeiture imposed by this chapter;

(p) Has, either within or without this state, by any act, threat, statement or otherwise, restrained, hindered, interfered with or prevented another promoter, club, association or booking agent, or has attempted, either within or without this state, in any such manner to restrain, hinder, interfere with or prevent another promoter, club, association or booking agent from presenting any boxing match or exhibition within or without the state of West Virginia;

(q) Has, either within or without this state, engaged, directly or indirectly, in restraints or monopolies or taken any action tending to create or establish restraints or monopolies or conspired with others to restrain any person or persons from participating or competing in any boxing match or exhibition for any promoter, club, association or booking agent.

§29-5A-15. Reports by clubs to commission; bonds of applicants for license.

Every club, corporation, association or individual which may hold or exercise any of the privileges conferred by this article, shall within twenty-four hours after the determination of any contest, furnish to the commission a written report, duly verified by one of its officers, showing the number of tickets sold for such contest and the amount of the gross proceeds thereof, and such other matters as the commission may prescribe. Before any license shall be granted to any club, corporation, association or individual to conduct, hold or give any boxing, sparring or exhibition, such applicant therefor shall execute and file with the commission a surety bond in the sum of which shall be at the discretion of said commission, to be approved as to form and the sufficiency of the security thereon by the said commission. Such bond shall cover all purses, awards and payments to be paid by the promoter.

§29-5A-16. Presence of members of commission or inspector at exhibitions and matches.

Each member of the commission shall have the privilege of being present at all exhibitions and matches without charge therefor, and shall, when present, see that the rules are strictly observed, and may be present at the counting of the gross receipts; and in the event that no member of the commission can be present, the commission may appoint an inspector to be present representing said commission, which inspector shall have the same privilege hereby conferred upon a member of the commission; and said inspector shall immediately mail to the commission the official box office statement received by him from the officers of the club.

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

The chief official of the boxing match or exhibition shall be the referee. The referee and judges shall be appointed by the commission, and shall receive from the commission a card authorizing them to act as such, and no club shall employ or permit anyone 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 and shall be paid by the promoter twenty-five dollars for each day or night's services. The referee shall be limited to refereeing a maximum of thirty rounds per day or night unless special consent is given by the commission.

§29-5A-18. Examination of contestants by physician; presence at contest; report to commission.

In any boxing or exhibition match, each contestant must be examined by a qualified physician prior to entering the ring. The physician shall certify in writing over his signature, as to contestant's physical condition to engage in such contest. Qualified technicians may assist the physician in the examinations, and a physician shall be in attendance during any boxing bouts prepared to deal with any emergency which may arise. 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, association or individual under whose management the contest is conducted, and it shall thereupon be unlawful for said club, corporation, association or individual to proceed with such. Whenever a participant, in the opinion of the physician, is unable to continue in a boxing match, the physician may stop the bout.

§29-5A-19. Weight of boxers.

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

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

No professional contestant, trainer, inspector, referee or professional manager is permitted to take part in any boxing contest or exhibition unless holding a license from the state, said license to be issued by the commission upon payment of ten dollars a year. Such fees shall accompany the application and shall be in the form of a certified check or money order and shall be issued to the treasurer of the state of West Virginia to be deposited in the general fund. Should such license not be granted, the treasurer shall refund the full amount.

§29-5A-21. Penalty for engaging in unlawful contest.

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

§29-5A-22. Penalty for violation not expressly provided for.

If any person shall violate any provision of this article, for which violation a penalty is not here expressly provided, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars, nor more than five hundred dollars.

§29-5A-23. Injunctive relief for violation of chapter.

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

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

(a) The commission shall promulgate its rules in compliance with the provisions of article three of chapter twenty-nine-a of this code.

(b) The commission shall promulgate such rules as it determines to be necessary to regulate professional and semiprofessional boxers, and professional and semiprofessional boxing matches and exhibitions. For full contact boxing and other boxing events that follow nontraditional rules, rules guaranteeing the safety of the participants and the fair and honest conducting of the matches or exhibitions are authorized.

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

(1) Rules which comply with the requirements of the rules of the current United States amateur boxing authority to the extent that any boxer complying with them will be eligible to participate in any state, national or international boxing match sanctioned by the current United States amateur boxing authority or the international amateur boxing association.

(2) Rules which may differ from the rules of the current United States amateur boxing authority but which adequately guarantee the safety of the participants and the fair and honest conducting of the matches or exhibitions. As a part of these rules, the commission shall include a requirement that all boxers participating in matches or exhibitions conducted under these rules be informed prior to such participation that such participation will disqualify them from participating in state, national or international matches and exhibitions sanctioned by the current United States amateur boxing authority or the international amateur boxing association.

§29-5A-25. Special permits to American Legion and other organizations.

Nothing in this article contained shall be construed to render unlawful boxing, sparring or exhibition contests for any charitable purpose, the American Legion, National Guard, Veterans of Foreign Wars, or other charitable organizations, but a permit shall be obtained from the commission. No charge shall be made for such permit.

§29-5A-25a. Certain amateur matches exempt.

The provisions of this article do not apply to amateur wrestling, amateur boxing, or amateur sparring matches or exhibitions conducted by any university, college or high school.

§29-5A-26. Severability.

If any section, clause, provision or portion of this article shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause or provision of this article which is not in and of itself unconstitutional.