

1 **COMMITTEE SUBSTITUTE**

2 **FOR**

3 **H. B. 2562**

4 (By Delegates Morgan, Stephens, Hartman,  
5 Manypenny, Martin, Staggers, Swartzmiller,  
6 Talbott and Azinger)

7 (Originating in the House Committee on Government Organization)

8 [January 27, 2011]

9  
10 A BILL to repeal §29-5A-1, §29-5A-2, §29-5A-3, §29-5A-4, §29-5A-5,  
11 §29-5A-6, §29-5A-7, §29-5A-8, §29-5A-9, §29-5A-10, §29-5A-11,  
12 §29-5A-12, §29-5A-13, §29-5A-14, §29-5A-15, §29-5A-16,  
13 §29-5A-17, §29-5A-18, §29-5A-19, §29-5A-20, §29-5A-21,  
14 §29-5A-22, §29-5A-23, §29-5A-24, §29-5A-25, §29-5A-25a, and  
15 §29-5A-26, of the Code of West Virginia, 1931, as amended; to  
16 amend and reenact §5F-2-1 of said code; to amend and reenact  
17 §11B-1-2 of said code; to amend code by adding thereto a new  
18 article designated §29-5-1, §29-5-2, §29-5-3, §29-5-4,  
19 §29-5-5, §29-5-6, §29-5-7, §29-5-8, §29-5-9, §29-5-10,  
20 §29-5-11, §29-5-12, §29-5-13, §29-5-14, §29-5-15, §29-5-16,  
21 §29-5-17 and §29-5-18; and to amend and reenact §29-22-5; all  
22 relating to the State Athletic Commission; transferring  
23 athletic commission to the division of lottery; prohibiting  
24 promoting and boxing without a license; prohibiting mixed  
25 martial arts without a license; defining terms; providing for  
26 commission composition; setting forth the powers and duties

1 of the commission; setting forth rule-making authority;  
2 creating a special revenue account; establishing license and  
3 permit requirements; establishing renewal requirements;  
4 setting forth grounds for disciplinary actions; allowing for  
5 specific disciplinary actions; providing procedures for  
6 investigation of complaints; providing for judicial review and  
7 appeals of decisions; setting forth hearing and notice  
8 requirements; providing for actions to enjoin violations; and  
9 providing for criminal sanctions.

10 *Be it enacted by the Legislature of West Virginia:*

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16 West Virginia, 1931, as amended, be repealed; that §5F-2-1 of said  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

24 **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE**  
25 **GOVERNMENT.**

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

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

3 (a) 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 Administration:

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

9 (2) Public Employees Insurance Agency provided in article  
10 sixteen, chapter five of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (A) Division of Unemployment Compensation;

13 (B) Division of Employment Services;

14 (C) Division of Workforce Development; and

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

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

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

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

24 (e) The following agencies and boards, including all of the  
25 allied, advisory and affiliated entities, are transferred to the  
26 Department of Environmental Protection for purposes of

1 administrative support and liaison with the office of the Governor:

2 (1) Air Quality Board provided in article two, chapter  
3 twenty-two-b of this code;

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

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

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

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

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

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

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

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

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

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

26 (4) Division of Rehabilitation Services provided in section

1 two, article ten-a, chapter eighteen of this code.

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

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

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

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

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

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

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

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

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

23 (h) The following agencies and boards, including all of the  
24 allied, advisory, affiliated or related entities and funds  
25 associated with any agency or board, are incorporated in and  
26 administered as a part of the Department of Military Affairs and

1 Public Safety:

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

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

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

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

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

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

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

18 (8) Division of Corrections provided in chapter twenty-five of  
19 this code;

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

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

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

26 (12) Division of Veterans' Affairs and Veterans' Council



1 provided in article one, chapter nine-a of this code.

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

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

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

10 (3) Lottery Commission and position of Lottery Director  
11 provided in article twenty-two, chapter twenty-nine of this code;  
12 which includes The State Athletic Commission provided in article  
13 five, chapter twenty-nine of this code.

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

16 (5) Office of Alcohol Beverage Control Commissioner provided  
17 in article sixteen, chapter eleven of this code and article two,  
18 chapter sixty of this code;

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

21 (7) Lending and Credit Rate Board provided in chapter  
22 forty-seven-a of this code;

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

25 (9) The State Budget Office provided in article two of this  
26 chapter;

1 (10) The Municipal Bond Commission provided in article three,  
2 chapter thirteen of this code; and,

3 (11) The Office of Tax Appeals provided in article ten-a,  
4 chapter eleven of this code. ~~and~~

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

7 (j) 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 Transportation:

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

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

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

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

19 (5) Aeronautics Commission provided in article two-a, chapter  
20 twenty-nine of this code;

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

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

25 (k) Except for powers, authority and duties that have been  
26 delegated to the secretaries of the departments by the provisions

1 of section two of this article, the position of administrator and  
2 the powers, authority and duties of each administrator and agency  
3 are not affected by the enactment of this chapter.

4 (l) Except for powers, authority and duties that have been  
5 delegated to the secretaries of the departments by the provisions  
6 of section two of this article, the existence, powers, authority  
7 and duties of boards and the membership, terms and qualifications  
8 of members of the boards are not affected by the enactment of this  
9 chapter. All boards that are appellate bodies or are independent  
10 decision makers shall not have their appellate or independent  
11 decision-making status affected by the enactment of this chapter.

12 (m) Any department previously transferred to and incorporated  
13 in a department by prior enactment of this section means a division  
14 of the appropriate department. Wherever reference is made to any  
15 department transferred to and incorporated in a department created  
16 in section two, article one of this chapter, the reference means a  
17 division of the appropriate department and any reference to a  
18 division of a department so transferred and incorporated means a  
19 section of the appropriate division of the department.

20 (n) When an agency, board or commission is transferred under  
21 a bureau or agency other than a department headed by a secretary  
22 pursuant to this section, that transfer is solely for purposes of  
23 administrative support and liaison with the Office of the Governor,  
24 a department secretary or a bureau. Nothing in this section  
25 extends the powers of department secretaries under section two of  
26 this article to any person other than a department secretary and

1 nothing limits or abridges the statutory powers and duties of  
2 statutory commissioners or officers pursuant to this code.

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

4 **ARTICLE 1. DEPARTMENT OF REVENUE.**

5 **§11B-1-2. Agencies, boards, commissions, divisions and offices**  
6 **comprising the Department of Finance and Revenue.**

7 (a) There shall be in the Department of Revenue the following  
8 agencies, boards, commissions, divisions and offices, including all  
9 of the allied, advisory, affiliated or related entities which are  
10 incorporated in and shall be administered as part of the Department  
11 of Revenue:

12 (1) The Alcohol Beverage Control Commissioner provided for in  
13 article sixteen, chapter eleven of this code and article one,  
14 chapter sixty of this code;

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

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

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

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

25 (6) The Lending and Credit Rate Board provided for in chapter

1 forty-seven-a of this code;

2 (7) The Lottery Commission and the position of Lottery  
3 Director provided for in article twenty-two, chapter twenty-nine of  
4 this code; which includes The State Athletic Commission provided in  
5 article five, chapter twenty-nine of this code.

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

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

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

12 ~~(11)~~ (10) The Tax Division provided for in article one,  
13 chapter eleven of this code; and

14 ~~(12)~~ (11) The West Virginia Racing Commission provided for in  
15 article twenty-three, chapter nineteen of this code.

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

19 **ARTICLE 5. STATE ATHLETIC COMMISSION.**

20 **§29-5-1. License required.**

21 (a) A person may not promote a contest unless the person is  
22 licensed under this article and secures a permit to conduct the  
23 contest.

24 (b) A person may not participate in a contest as an official  
25 or contestant, unless the person is licensed under this article.

26 **§29-5-2. Definitions.**

1 As used in this article:

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

4 (b) "Boxing" means a contest between contestants who fight  
5 with their fists protected by gloves or mittens fashioned of  
6 leather or similar material, the duration of which is limited to a  
7 stated number of rounds separated by rest periods of equal  
8 duration. "Boxing" includes kickboxing.

9 (c) "Business entity" means any firm, partnership,  
10 association, club, company, corporation, limited partnership,  
11 limited liability company or other entity.

12 (d) "Contest" means any public or private competition or  
13 exhibition that involves boxing, mixed martial arts or tough man.

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

16 (f) "Mixed martial arts" means a combative sporting contest,  
17 the rules of which allow two competitors to attempt to achieve  
18 dominance over one another by utilizing a variety of techniques  
19 including, but not limited to, striking, grappling and the  
20 application of submission holds.

21 (g) "Official" means referee, judge, matchmaker, timekeeper  
22 licensed under this article.

23 (h) "Professional" means an individual licensed by the  
24 commission who competes for or has competed for a money prize,  
25 purse or compensation in a contest.

26 (I) "Promote" means to conduct or hold a contest.

1 (j) "Semi-Professional" means a tournament that involves  
2 physical contact between two individuals who attempt to out point  
3 the opponent by using boxing techniques and tactics. The winner of  
4 the tournament receiving a monetary prize or compensation.

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

6 (a) The West Virginia Athletic Commission is terminated July  
7 1, 2011, and shall be reconstituted on July 1, 2011. The  
8 commission shall consist of the five members appointed by the  
9 Governor, by and with the advice and consent of the Senate:

10 (1) One member who has five years experience in professional  
11 boxing;

12 (2) One member who has five years of experience in  
13 professional mixed martial arts;

14 (3) One member who has five years of experience in semi-  
15 professional boxing;

16 (4) One member who is a licensed allopathic or osteopathic  
17 physician; and

18 (5) One citizen member, who is not licensed under the  
19 provisions of this article and does not perform any services  
20 related to the persons regulated under this article.

21 (b) The terms shall be for four years, except for the initial  
22 terms which the Governor shall stagger.

23 (c) Each member of the commission must be a resident of this  
24 state during the appointment term.

25 (d) A person, who is regulated by the commission, may not be  
26 appointed to the commission or be an employee of the commission.

1 A member may not have any legal or beneficial interest, direct or  
2 indirect, pecuniary or otherwise, in any person who is regulated by  
3 the commission or who participates in a contest.

4 (e) A member may not participate in any contest other than  
5 in the member's official capacity as a member of the commission.

6 (f) A member may not serve more than two consecutive full  
7 terms. A member may continue to serve until a successor has been  
8 appointed and has qualified.

9 (g) A vacancy on the commission shall be filled by appointment  
10 by the Governor for the unexpired term of the member whose office  
11 is vacant and the appointment shall be made within sixty days of  
12 the vacancy.

13 (h) The Governor may remove any member from the commission for  
14 neglect of duty, incompetency or official misconduct.

15 (i) A member of the commission immediately and automatically  
16 forfeits membership on the commission if he or she is convicted of  
17 a felony under the laws of any jurisdiction, or becomes a  
18 nonresident of this state.

19 (j) The commission shall elect annually one of its members as  
20 chairperson who serves at the will of the commission.

21 (k) Each member of the commission is entitled to compensation  
22 and expense reimbursement in accordance with section eleven,  
23 article one, chapter thirty of this code.

24 (l) A majority of the members of the commission constitutes a  
25 quorum.

26 (m) The commission shall hold at least two annual meetings.



1 Other meetings may be held at the call of the chairperson or upon  
2 the written request of two members, at the time and place as  
3 designated in the call or request.

4 (n) Prior to commencing his or her duties as a member of the  
5 commission, each member shall take and subscribe to the oath  
6 required by section five, article four of the Constitution of this  
7 state.

8 **§29-5-4. Powers and duties of the commission.**

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

11 (b) The commission shall:

12 (1) Have control over professional boxing and mixed martial  
13 arts contests and amateur mixed martial arts contest;

14 (2) Have control over semi-professional boxing;

15 (3) Hold meetings and conduct hearings;

16 (4) Establish requirements for licenses;

17 (5) Establish procedures for submitting, approving and  
18 rejecting applications for licenses and permits;

19 (6) Determine the qualifications of any applicant for licenses  
20 and permits;

21 (7) Hire, discharge, establish the job requirements and fix  
22 the compensation of the executive director;

23 (8) Maintain an office, and hire, discharge, establish the job  
24 requirements and fix the compensation of employees, investigators  
25 and contracted employees necessary to enforce the provisions of  
26 this article;

1       (9) Investigate alleged violations of the provisions of this  
2 article, legislative rules, orders and final decisions of the  
3 commission;

4       (10) Establish the criteria for the training of investigators;

5       (11) Set the requirements for investigations;

6       (12) Conduct disciplinary hearings of persons regulated by the  
7 commission;

8       (13) Determine disciplinary action and issue orders;

9       (14) Institute appropriate legal action for the enforcement of  
10 the provisions of this article;

11       (15) Maintain an accurate registry of names and addresses of  
12 all licensees;

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

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

17       (18) Establish a fee schedule;

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

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

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

25       (c) The commission may:

26       (1) Sue and be sued in its official name as an agency of this

1 state; and

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

4 **§29-5-5. Rulemaking.**

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

9 (1) Standards and requirements for licenses and permits;

10 (2) Adopting the unified rules of mixed martial arts;

11 (3) Adopting the unified rules of boxing;

12 (4) Adopting rules governing semi-professional boxing  
13 contests;

14 (5) Procedures for the issuance and renewal of licenses and  
15 permits;

16 (6) A fee schedule;

17 (7) Increasing the surety bond or required insurance above the  
18 statutory minimum;

19 (8) The procedures for denying, suspending, revoking,  
20 reinstating or limiting the practice of licensees and permittees;

21 (9) Requirements for investigations;

22 (10) Requirements for the reinstatement of revoked licenses or  
23 permits; and

24 (11) Any other rules necessary to effectuate the provisions of  
25 this article.

26 (b) All of the commission's rules in effect on July 1, 2011,

1 shall remain in effect until they are amended or repealed, and  
2 references to provisions of former enactments of this article are  
3 interpreted to mean provisions of this article.

4 **§29-5-6. Fees; special revenue account; administrative fines.**

5 (a) All fees and other moneys, except administrative fines,  
6 received by the commission shall be deposited in a separate special  
7 revenue fund in the State Treasury designated the "West Virginia  
8 State Athletic Commission", which is continued. The fund is used  
9 by the commission for the administration of this article. Except  
10 as may be provided in article one, chapter thirty, the commission  
11 retains the amount in the special revenue account from year to  
12 year. No compensation or expense incurred under this article is a  
13 charge against the General Revenue Fund.

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

17 **§29-5-7. Promoter's license requirements.**

18 (a) To be eligible for a license to promote a contest, the  
19 applicant must:

20 (1) Apply to the commission on a form prescribed by the  
21 commission;

22 (2) Be of good moral character;

23 (3) Conduct his or her business in the best interest and  
24 welfare of the public and preserving the safety and health of  
25 participants;

26 (4) Pay the prescribed fee; and

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

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

5 (c) The inspector and other officials designated by the  
6 commission to be in charge of a contest shall be paid by the  
7 promoter for each weigh-in ceremony and for each day of the  
8 contest.

9 (d) A promoter shall, within one week after the determination  
10 of a contest, furnish to the commission a written report detailing  
11 the number of tickets sold, the amount of the gross proceeds and  
12 other matters as the commission may prescribe.

13 (e) A promoter shall execute and file with the commission a  
14 surety bond in an amount not less than \$10,000.

15 (f) A license issued pursuant to this section shall bear the  
16 name of the promoter, the address of the promoter, the date of  
17 expiration, and an identification number designated by the  
18 commission.

19 (g) A promoter's license shall expire twelve months after its  
20 date of issuance and shall become invalid on that date unless  
21 renewed. A promoter's license may be renewed upon application to  
22 the commission and upon payment of the renewal fee.

23 (h) A person licensed as a promoter shall insure each  
24 contestant in a contest for hospital, nursing, and medication  
25 expenses and for physicians' and surgeons' services. The amount of  
26 the insurance may not be less than \$20,000 and shall be paid to or

1 for the use of a contestant for any injuries sustained in a  
2 contest.

3 (i) A person licensed as a promoter shall provide life  
4 insurance to each contestant. The amount of life insurance may not  
5 be less than \$20,000 and it shall be paid to the contestant's  
6 estate if the contestant dies as the result of participation in the  
7 contest.

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

9 (a) To be eligible for a license to be a contestant in a  
10 boxing or mixed martial arts contest, the applicant must:

11 (1) Apply to the commission on a form prescribed by the  
12 commission;

13 (2) Be physically fit and mentally sound;

14 (3) Pay the prescribed fee;

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

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

17 (6) Have passed a physical by a licensed physician the day of  
18 the scheduled contest; and

19 (7) Present documentary evidence, satisfactory to the  
20 commission, that:

21 (A) Within one year, immediately proceeding a contest, the  
22 applicant has been tested for the presence of:

23 (i) Antibodies to the human immunodeficiency virus (HIV);

24 (ii) The antigen of virus hepatitis B;

25 (iii) Antibodies to virus hepatitis C; and,

26 (iv) A pregnancy test, if applicable; and,

1 (B) The results of all tests are negative;

2 (8) Report the results of the examination to the commission.

3 (b) All contestants must sign a medical information release  
4 form to permit the commission to review the contestant's medical  
5 information.

6 **§29-5-9. Semi-professional contestant license requirements.**

7 (a) To be eligible for a license to be a semi-professional  
8 contestant, the applicant must:

9 (1) Apply to the commission on a form prescribed by the  
10 commission;

11 (2) Be physically fit and mentally sound;

12 (3) Pay the prescribed fee;

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

14 (5) Have passed a physical by a licensed physician on the day  
15 of the scheduled contest.

16 **§29-5-10. Officials license requirements.**

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

19 (1) Apply to the commission on a form prescribed by the  
20 commission;

21 (2) Be of good moral character;

22 (3) Be physically fit and mentally sound;

23 (4) Pay the prescribed fee;

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

25 (6) Be unlikely to engage in acts detrimental to the fair and  
26 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) Meet any other requirements the commission prescribes by  
4 legislative rule.

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

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

12 **§29-5-11. Permit requirements.**

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

15 (1) Be licensed under section seven of this article; and,

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

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

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

20 (C) The names of the contestants;

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

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

24 (F) A copy of the contracts the promoter and the contestants  
25 have signed; and

26 (G) The name and address of the applicant; and



1       (3) Pay the applicable fee.

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

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

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

11 **§29-5-12. Amateur boxing.**

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

14 **§29-5-13. Deputy chief and inspectors at contests.**

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

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

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

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

24 **§29-5-14. Complaints; investigations; due process procedure;**  
25 **grounds for disciplinary action.**

1       (a) The commission may upon its own motion based on credible  
2 information, and shall upon the written complaint of any person,  
3 cause an investigation to be made to determine whether grounds  
4 exist for disciplinary action under this article or the legislative  
5 rules of the commission.

6       (b) Upon initiation or receipt of the complaint, the  
7 commission shall provide a copy of the complaint to the licensee or  
8 permittee.

9       (c) After reviewing any information obtained through an  
10 investigation, the commission shall determine if probable cause  
11 exists that the licensee or permittee has violated subsection (g)  
12 of this section or rules promulgated pursuant to this article.

13       (d) Upon a finding that probable cause exists that the  
14 licensee or permittee has violated subsection (g) of this section  
15 or rules promulgated pursuant to this article, the commission may  
16 enter into a consent decree or hold a hearing for the suspension or  
17 revocation of the license or permit or the imposition of sanctions  
18 against the licensee or permittee.

19       (e) Any member of the commission or the executive director of  
20 the commission may issue subpoenas and subpoenas duces tecum to  
21 obtain testimony and documents to aid in the investigation of  
22 allegations against any person regulated by the article.

23       (f) Any member of the commission or its executive director may  
24 sign a consent decree or other legal document on behalf of the  
25 commission.

26       (g) The commission may, after notice and opportunity for

1 hearing, deny or refuse to renew, suspend or revoke the license or  
2 permit of, impose probationary conditions upon or take disciplinary  
3 action against, any licensee or permittee for any of the following  
4 reasons once a violation has been proven by a preponderance of the  
5 evidence:

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

8       (2) Being convicted of a felony or other crime involving moral  
9 turpitude;

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

12       (4) Intentional violation of a lawful order or legislative  
13 rule of the commission;

14       (5) Having had an authorization revoked, suspended, other  
15 disciplinary action taken, by the proper authorities of another  
16 jurisdiction;

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

19       (7) Aiding or abetting unlicensed practice;

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

23       (9) Being a habitual drunkard or addicted to the use of a  
24 controlled substance;

25       (10) Being mentally incompetent;

26       (11) Failing to maintain in force the bond required by this

1 chapter;

2 (12) Conducting himself or herself, by act or omission, in a  
3 manner which would tend to be detrimental to the best interests of  
4 boxing, mixed martial arts and semiprofessional boxing generally,  
5 or to the public interest and general welfare;

6 (13) Failing to pay a fine or forfeiture imposed by this  
7 chapter;

8 (14) Knowingly permitting a person less than eighteen years of  
9 age to participate in a public boxing or wrestling contest;

10 (15) Knowingly permitting gambling, betting, or wagering on  
11 the result of a contingency in connection with a contest; or

12 (16) Knowingly conducting or allowing to be conducted a sham  
13 or fake contest.

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

16 (1) Reprimand;

17 (2) Probation;

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

20 (4) Practicing under supervision or other restriction;

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

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

25 **§29-5-15. Procedures for hearing; right of appeal.**

26 (a) Hearings shall be governed by the provisions of article

1 five, chapter twenty-nine-a of this code.

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

4 (c) If the hearing is conducted by an administrative law  
5 judge, at the conclusion of a hearing he or she shall prepare a  
6 proposed written order containing findings of fact and conclusions  
7 of law. The proposed order may contain proposed disciplinary  
8 actions if the commission so directs. The commission may accept,  
9 reject or modify the decision of the administrative law judge.

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

13 (e) If, after a hearing, the commission determines the  
14 licensee or permittee has violated subsection (g) of this section  
15 or the commission's rules, a formal written decision shall be  
16 prepared which contains findings of fact, conclusions of law and a  
17 specific description of the disciplinary actions imposed.

18 **§29-5-16. Judicial review.**

19 Any licensee or permittee adversely affected by a decision of  
20 the commission entered after a hearing may obtain judicial review  
21 of the decision in accordance with section four, article five,  
22 chapter twenty-nine-a of this code, and may appeal any ruling  
23 resulting from judicial review in accordance with article six,  
24 chapter twenty-nine-a of this code.

25 **§29-5-17. Actions to enjoin violations.**

26 (a) If the commission obtains information that any person has

1 engaged in, is engaging in or is about to engage in any act which  
2 constitutes or will constitute a violation of the provisions of  
3 this article, the rules promulgated pursuant to this article, or a  
4 final order or decision of the commission, it may issue a notice to  
5 the person to cease and desist in engaging in the act and/or apply  
6 to the circuit court in the county of the alleged violation for an  
7 order enjoining the act.

8       (b) The circuit courts of this state may issue a temporary  
9 injunction pending a decision on the merits, and may issue a  
10 permanent injunction based on its findings in the case.

11       (c) The judgment of the circuit court on an application  
12 permitted by the provisions of this section is final unless  
13 reversed, vacated or modified on appeal to the West Virginia  
14 Supreme Court of Appeals.

15 **§29-5-18. Criminal proceedings; penalties.**

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

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

25 **ARTICLE 22. STATE LOTTERY ACT.**

26 **§29-22-5. State Lottery Commission; powers and duties; cooperation**

1                   **of other agencies.**

2           (a) The commission has the authority to:

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

9           (2) Establish rules for conducting lottery games, a manner of  
10 selecting the winning tickets and manner of payment of prizes to  
11 the holders of winning tickets;

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

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

21           (5) Enter into interstate and international lottery agreements  
22 with other states or foreign countries, or any combination of one  
23 or more states and one or more foreign countries;

24           (6) Adopt an official seal;

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

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

2 (9) Sue and be sued;

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

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

9 (12) Hold hearings on any matter of concern to the commission  
10 relating to the lottery, subpoena witnesses, administer oaths, take  
11 testimony, require the production of evidence and documentary  
12 evidence and designate hearing examiners and employees to so act;  
13 and

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

17 (14) Provide administrative support and office space to the  
18 State Athletic Commission.

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

22 (c) Upon the request of the deputy director for the security  
23 and licensing division in conjunction with the director, the  
24 Attorney General, Department of Public Safety and all other  
25 law-enforcement agencies shall furnish to the director and the  
26 deputy director such information as may tend to assure the security,



1 honesty, fairness and integrity in the operation and administration  
2 of the lottery as they may have in their possession, including, but  
3 not limited to, manual or computerized information and data. The  
4 director is to designate such employees of the security and  
5 licensing division as may be necessary to act as enforcement agents.  
6 Such agents are authorized to investigate complaints made to the  
7 commission or the State Lottery Office concerning possible violation  
8 of the provisions of this article and determine whether to recommend  
9 criminal prosecution. If it is determined that action is necessary,  
10 an agent, after approval of the director, is to make such  
11 recommendation to the prosecuting attorney in the county wherein the  
12 violation occurred or to any appropriate law-enforcement agency.