

COMMITTEE SUBSTITUTE

FOR

H. B. 2562

(BY DELEGATES MORGAN, STEPHENS, HARTMAN,
MANYPENNY, MARTIN, STAGGERS, SWARTZMILLER,
TALBOTT AND AZINGER)

(Originating in the Committee on Government Organization)
[January 27, 2011]

A BILL to repeal §29-5A-1, §29-5A-2, §29-5A-3, §29-5A-4,
§29-5A-5, §29-5A-6, §29-5A-7, §29-5A-8, §29-5A-9,
§29-5A-10, §29-5A-11, §29-5A-12, §29-5A-13, §29-5A-14,
§29-5A-15, §29-5A-16, §29-5A-17, §29-5A-18, §29-5A-19,
§29-5A-20, §29-5A-21, §29-5A-22, §29-5A-23, §29-5A-24,
§29-5A-25, §29-5A-25a, and §29-5A-26, of the Code of West
Virginia, 1931, as amended; to amend and reenact §5F-2-1 of

said code; to amend and reenact §11B-1-2 of said code; to amend said code by adding thereto a new article, designated §29-5-1, §29-5-2, §29-5-3, §29-5-4, §29-5-5, §29-5-6, §29-5-7, §29-5-8, §29-5-9, §29-5-10, §29-5-11, §29-5-12, §29-5-13, §29-5-14, §29-5-15, §29-5-16, §29-5-17 and §29-5-18; and to amend and reenact §29-22-5, all relating to the State Athletic Commission; transferring athletic commission to the division of lottery; prohibiting promoting and boxing without a license; prohibiting mixed martial arts without a license; defining terms; providing for commission composition; setting forth the powers and duties of the commission; setting forth rule-making authority; creating a special revenue account; establishing license and permit requirements; establishing renewal requirements; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for actions to enjoin violations; and providing for criminal sanctions.

Be it enacted by the Legislature of West Virginia:

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§29-5A-23, §29-5A-24, §29-5A-25, §29-5A-25a, and §29-5A-26, of the Code of West Virginia, 1931, as amended, be repealed; that §5F-2-1 of said code be amended and reenacted; that §11B-1-2 of said code be amended and reenacted; that said code be amended by adding thereto a new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

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

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (2) Office of Miners' Health, Safety and Training
42 provided in article one, chapter twenty-two-a of this code.

43 The following boards are transferred to the Office of Miners'
44 Health, Safety and Training for purposes of administrative
45 support and liaison with the office of the Governor:

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

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

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

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

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

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

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

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

66 (A) Division of Unemployment Compensation;

67 (B) Division of Employment Services;

68 (C) Division of Workforce Development; and

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

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

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

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

79 (e) The following agencies and boards, including all of
80 the allied, advisory and affiliated entities, are transferred to
81 the Department of Environmental Protection for purposes of
82 administrative support and liaison with the office of the
83 Governor:

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

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

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

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

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

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

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

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

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

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

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

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

111 (g) The following agencies and boards, including all of
112 the allied, advisory, affiliated or related entities and funds

113 associated with any agency or board, are incorporated in and
114 administered as a part of the Department of Health and
115 Human Resources:

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

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

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

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

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

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

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

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

133 (h) The following agencies and boards, including all of
134 the allied, advisory, affiliated or related entities and funds
135 associated with any agency or board, are incorporated in and
136 administered as a part of the Department of Military Affairs
137 and Public Safety:

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

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

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

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

146 (5) Division of Homeland Security and Emergency
147 Management and Disaster Recovery Board provided in article
148 five, chapter fifteen of this code and Emergency Response
149 Commission provided in article five-a of said chapter;

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

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

154 (8) Division of Corrections provided in chapter
155 twenty-five of this code;

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

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

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

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

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

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

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

172 (3) Lottery Commission and position of Lottery Director
173 provided in article twenty-two, chapter twenty-nine of this
174 code; which includes The State Athletic Commission
175 provided in article five, chapter twenty-nine of this code.

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

178 (5) Office of Alcohol Beverage Control Commissioner
179 provided in article sixteen, chapter eleven of this code and
180 article two, chapter sixty of this code;

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

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

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

187 (9) The State Budget Office provided in article two of
188 this chapter;

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

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

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

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

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

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

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

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

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

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

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

214 (k) Except for powers, authority and duties that have
215 been delegated to the secretaries of the departments by the
216 provisions of section two of this article, the position of
217 administrator and the powers, authority and duties of each
218 administrator and agency are not affected by the enactment
219 of this chapter.

220 (l) Except for powers, authority and duties that have been
221 delegated to the secretaries of the departments by the
222 provisions of section two of this article, the existence,
223 powers, authority and duties of boards and the membership,
224 terms and qualifications of members of the boards are not

225 affected by the enactment of this chapter. All boards that are
226 appellate bodies or are independent decision makers shall not
227 have their appellate or independent decision-making status
228 affected by the enactment of this chapter.

229 (m) Any department previously transferred to and
230 incorporated in a department by prior enactment of this
231 section means a division of the appropriate department.
232 Wherever reference is made to any department transferred to
233 and incorporated in a department created in section two,
234 article one of this chapter, the reference means a division of
235 the appropriate department and any reference to a division of
236 a department so transferred and incorporated means a section
237 of the appropriate division of the department.

238 (n) When an agency, board or commission is transferred
239 under a bureau or agency other than a department headed by
240 a secretary pursuant to this section, that transfer is solely for
241 purposes of administrative support and liaison with the
242 Office of the Governor, a department secretary or a bureau.
243 Nothing in this section extends the powers of department

244 secretaries under section two of this article to any person
245 other than a department secretary and nothing limits or
246 abridges the statutory powers and duties of statutory
247 commissioners or officers pursuant to this code.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 1. DEPARTMENT OF REVENUE.

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

1 (a) There shall be in the Department of Revenue the
2 following agencies, boards, commissions, divisions and
3 offices, including all of the allied, advisory, affiliated or
4 related entities which are incorporated in and shall be
5 administered as part of the Department of Revenue:

6 (1) The Alcohol Beverage Control Commissioner
7 provided for in article sixteen, chapter eleven of this code
8 and article one, chapter sixty of this code;

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

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

13 (4) The State Budget Office ~~heretofore known as the~~
14 ~~budget section of the Finance Division, Department of~~
15 ~~Administration, previously provided for in article two,~~
16 ~~chapter five-a of this code and now~~ provided for in article
17 two of this chapter;

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

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

22 (7) The Lottery Commission and the position of Lottery
23 Director provided for in article twenty-two, chapter twenty-nine
24 of this code; which includes The State Athletic Commission
25 provided in article five, chapter twenty-nine of this code.

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

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

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

32 ~~(11)~~ (10) The Tax Division provided for in article one,
33 chapter eleven of this code; and

34 ~~(12)~~ (11) The West Virginia Racing Commission provided
35 for in article twenty-three, chapter nineteen of this code.

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

ARTICLE 5. STATE ATHLETIC COMMISSION.

§29-5-1. License required.

1 (a) A person may not promote a contest unless the person
2 is licensed under this article and secures a permit to conduct
3 the contest.

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

§29-5-2. Definitions.

1 As used in this article:

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

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

15 (e) “Contestant” means a person participating in a contest
16 or exhibition including a manager, trainer, or second of a
17 contestant.

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

23 (g) “Official” means referee, judge, matchmaker,
24 timekeeper licensed under this article.

25 (h) “Professional” means an individual licensed by the
26 commission who competes for or has competed for a money
27 prize, purse or compensation in a contest.

28 (i) “Promote” means to conduct or hold a contest.

29 (j) “Semi-Professional” means a tournament that involves
30 physical contact between two individuals who attempt to out
31 point the opponent by using boxing techniques and tactics.
32 The winner of the tournament receiving a monetary prize or
33 compensation.

§29-5-3. State Athletic Commission.

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

6 (1) One member who has five years experience in
7 professional boxing;

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

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

12 (4) One member who is a licensed allopathic or
13 osteopathic physician; and

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

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

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

21 (d) A person, who is regulated by the commission, may
22 not be appointed to the commission or be an employee of the
23 commission. A member may not have any legal or beneficial
24 interest, direct or indirect, pecuniary or otherwise, in any
25 person who is regulated by the commission or who
26 participates in a contest.

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

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

33 (g) A vacancy on the commission shall be filled by
34 appointment by the Governor for the unexpired term of the
35 member whose office is vacant and the appointment shall be
36 made within sixty days of the vacancy.

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

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

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

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

50 (l) A majority of the members of the commission
51 constitutes a quorum.

52 (m) The commission shall hold at least two annual
53 meetings. Other meetings may be held at the call of the
54 chairperson or upon the written request of two members, at
55 the time and place as designated in the call or request.

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

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

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

3 (b) The commission shall:

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

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

7 (3) Hold meetings and conduct hearings;

8 (4) Establish requirements for licenses;

9 (5) Establish procedures for submitting, approving and
10 rejecting applications for licenses and permits;

11 (6) Determine the qualifications of any applicant for
12 licenses and permits;

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

15 (8) Maintain an office, and hire, discharge, establish the
16 job requirements and fix the compensation of employees,
17 investigators and contracted employees necessary to enforce
18 the provisions of this article;

19 (9) Investigate alleged violations of the provisions of this
20 article, legislative rules, orders and final decisions of the
21 commission;

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

23 (11) Set the requirements for investigations;

24 (12) Conduct disciplinary hearings of persons regulated by
25 the commission;

26 (13) Determine disciplinary action and issue orders;

27 (14) Institute appropriate legal action for the enforcement
28 of the provisions of this article;

29 (15) Maintain an accurate registry of names and addresses
30 of all licensees;

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

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

36 (18) Establish a fee schedule;

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

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

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

44 (c) The commission may:

- 45 (1) Sue and be sued in its official name as an agency of
46 this state; and
- 47 (2) Confer with the Attorney General or his or her
48 assistant in connection with legal matters and questions.

§29-5-5. Rulemaking.

- 1 (a) The commission shall propose rules for legislative
2 approval, in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code, to implement the
4 provisions of this article, including:
- 5 (1) Standards and requirements for licenses and permits;
6 (2) Adopting the unified rules of mixed martial arts;
7 (3) Adopting the unified rules of boxing;
8 (4) Adopting rules governing semi-professional boxing
9 contests;
- 10 (5) Procedures for the issuance and renewal of licenses
11 and permits;
- 12 (6) A fee schedule;
13 (7) Increasing the surety bond or required insurance
14 above the statutory minimum;

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

17 (9) Requirements for investigations;

18 (10) Requirements for the reinstatement of revoked
19 licenses or permits; and

20 (11) Any other rules necessary to effectuate the
21 provisions of this article.

22 (b) All of the commission's rules in effect on July 1,
23 2011, shall remain in effect until they are amended or
24 repealed, and references to provisions of former enactments
25 of this article are interpreted to mean provisions of this
26 article.

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

1 (a) All fees and other moneys, except administrative
2 fines, received by the commission shall be deposited in a
3 separate special revenue fund in the State Treasury
4 designated the "West Virginia State Athletic Commission",
5 which is continued. The fund is used by the commission for
6 the administration of this article. Except as may be provided

7 in article one, chapter thirty, the commission retains the
8 amount in the special revenue account from year to year. No
9 compensation or expense incurred under this article is a
10 charge against the General Revenue Fund.

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

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

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

3 (1) Apply to the commission on a form prescribed by the
4 commission;

5 (2) Be of good moral character;

6 (3) Conduct his or her business in the best interest and
7 welfare of the public and preserving the safety and health of
8 participants;

9 (4) Pay the prescribed fee; and

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

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

15 (c) The inspector and other officials designated by the
16 commission to be in charge of a contest shall be paid by the
17 promoter for each weigh-in ceremony and for each day of the
18 contest.

19 (d) A promoter shall, within one week after the
20 determination of a contest, furnish to the commission a
21 written report detailing the number of tickets sold, the
22 amount of the gross proceeds and other matters as the
23 commission may prescribe.

24 (e) A promoter shall execute and file with the
25 commission a surety bond in an amount not less than
26 \$10,000.

27 (f) A license issued pursuant to this section shall bear the
28 name of the promoter, the address of the promoter, the date
29 of expiration, and an identification number designated by the
30 commission.

31 (g) A promoter's license shall expire twelve months after
32 its date of issuance and shall become invalid on that date
33 unless renewed. A promoter's license may be renewed upon
34 application to the commission and upon payment of the
35 renewal fee.

36 (h) A person licensed as a promoter shall insure each
37 contestant in a contest for hospital, nursing, and medication
38 expenses and for physicians' and surgeons' services. The
39 amount of the insurance may not be less than \$20,000 and
40 shall be paid to or for the use of a contestant for any injuries
41 sustained in a contest.

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

§29-5-8. Contestant license requirements.

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

3 (1) Apply to the commission on a form prescribed by the
4 commission;

5 (2) Be physically fit and mentally sound;

6 (3) Pay the prescribed fee;

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

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

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

12 (7) Present documentary evidence, satisfactory to the
13 commission, that:

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

16 (i) Antibodies to the human immunodeficiency virus
17 (HIV);

18 (ii) The antigen of virus hepatitis B;

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

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

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

22 (8) Report the results of the examination to the
23 commission.

24 (b) All contestants must sign a medical information
25 release form to permit the commission to review the
26 contestant's medical information.

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

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

3 (1) Apply to the commission on a form prescribed by the
4 commission;

5 (2) Be physically fit and mentally sound;

6 (3) Pay the prescribed fee;

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

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

§29-5-10. Officials license requirements.

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

3 (1) Apply to the commission on a form prescribed by the
4 commission;

5 (2) Be of good moral character;

6 (3) Be physically fit and mentally sound;

7 (4) Pay the prescribed fee;

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

10 (6) Be unlikely to engage in acts detrimental to the fair
11 and honest conduct of contests;

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

14 (8) Meet any other requirements the commission
15 prescribes by legislative rule.

16 (b) The chief official of the contest is the deputy chief.
17 The chief official of the bout is the referee. The referee shall
18 have general supervision and control over the contest and
19 shall be paid by the promoter.

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

§29-5-11. Permit requirements.

1 (a) To be eligible for a permit to conduct a contest an
2 applicant must:

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

4 (2) Apply to the commission on a form prescribed by the
5 commission. The form shall require the following
6 information:

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

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

10 (C) The names of the contestants;

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

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

14 (F) A copy of the contracts the promoter and the
15 contestants have signed; and

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

17 (3) Pay the applicable fee.

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

21 (c) Each permit issued pursuant to this section shall bear
22 the name and address of the applicant, the address of the
23 place where the contest is to be held, and the date and
24 starting time of the contest.

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

§29-5-12. Amateur boxing.

1 Amateur boxing shall be governed by United States
2 Boxing Association.

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

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

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

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

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

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

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

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

14 (d) Upon a finding that probable cause exists that the
15 licensee or permittee has violated subsection (g) of this

16 section or rules promulgated pursuant to this article, the
17 commission may enter into a consent decree or hold a
18 hearing for the suspension or revocation of the license or
19 permit or the imposition of sanctions against the licensee or
20 permittee.

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

26 (f) Any member of the commission or its executive
27 director may sign a consent decree or other legal document
28 on behalf of the commission.

29 (g) The commission may, after notice and opportunity for
30 hearing, deny or refuse to renew, suspend or revoke the
31 license or permit of, impose probationary conditions upon or
32 take disciplinary action against, any licensee or permittee for
33 any of the following reasons once a violation has been
34 proven by a preponderance of the evidence:

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

37 (2) Being convicted of a felony or other crime involving
38 moral turpitude;

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

42 (4) Intentional violation of a lawful order or legislative
43 rule of the commission;

44 (5) Having had an authorization revoked, suspended,
45 other disciplinary action taken, by the proper authorities of
46 another jurisdiction;

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

49 (7) Aiding or abetting unlicensed practice;

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

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

55 (10) Being mentally incompetent;

56 (11) Failing to maintain in force the bond required by this
57 chapter;

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

63 (13) Failing to pay a fine or forfeiture imposed by this
64 chapter;

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

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

71 (16) Knowingly conducting or allowing to be conducted
72 a sham or fake contest.

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

75 (1) Reprimand;

76 (2) Probation;

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

79 (4) Practicing under supervision or other restriction;

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

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

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

1 (a) Hearings shall be governed by the provisions of
2 article five, chapter twenty-nine-a of this code.

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

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

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

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

§29-5-16. Judicial review.

1 Any licensee or permittee adversely affected by a
2 decision of the commission entered after a hearing may

3 obtain judicial review of the decision in accordance with
4 section four, article five, chapter twenty-nine-a of this code,
5 and may appeal any ruling resulting from judicial review in
6 accordance with article six, chapter twenty-nine-a of this
7 code.

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

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

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

12 (c) The judgment of the circuit court on an application
13 permitted by the provisions of this section is final unless

14 reversed, vacated or modified on appeal to the West Virginia
15 Supreme Court of Appeals.

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

1 (a) When, as a result of an investigation under this article
2 or otherwise, the commission has reason to believe that a
3 licensee or permittee has committed a criminal offense under
4 this article, the commission may bring its information to the
5 attention of an appropriate law-enforcement official.

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

ARTICLE 22. STATE LOTTERY ACT.

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

1 (a) The commission has the authority to:
2 (1) Promulgate rules in accordance with chapter
3 twenty-nine-a of this code: *Provided*, That those rules
4 promulgated by the commission that are necessary to begin

5 the lottery games selected shall be exempted from the
6 provisions of chapter twenty-nine-a of this code in order that
7 the selected games may commence as soon as possible;

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

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

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

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

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

28 (9) Sue and be sued;

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

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

35 (12) Hold hearings on any matter of concern to the
36 commission relating to the lottery, subpoena witnesses,
37 administer oaths, take testimony, require the production of
38 evidence and documentary evidence and designate hearing
39 examiners and employees to so act; and

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

43 (14) Provide administrative support and office space to
44 the State Athletic Commission.

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

48 (c) Upon the request of the deputy director for the
49 security and licensing division in conjunction with the
50 director, the Attorney General, Department of Public Safety
51 and all other law-enforcement agencies shall furnish to the
52 director and the deputy director such information as may
53 tend to assure the security, honesty, fairness and integrity
54 in the operation and administration of the lottery as they
55 may have in their possession, including, but not limited to,
56 manual or computerized information and data. The director
57 is to designate such employees of the security and licensing
58 division as may be necessary to act as enforcement agents.
59 Such agents are authorized to investigate complaints made
60 to the commission or the State Lottery Office concerning
61 possible violation of the provisions of this article and

62 determine whether to recommend criminal prosecution. If
63 it is determined that action is necessary, an agent, after
64 approval of the director, is to make such recommendation
65 to the prosecuting attorney in the county wherein the
66 violation occurred or to any appropriate law-enforcement
67 agency.